

# STATE OF NEW YORK

9751

## IN SENATE

May 28, 2024

Introduced by Sen. RYAN -- (at request of the Division of State Police)  
-- read twice and ordered printed, and when printed to be committed to  
the Committee on Codes

AN ACT to amend the penal law, the executive law and the general business law, in relation to background checks conducted by the division of state police

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

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as  
2 amended by chapter 207 of the laws of 2022, is amended to read as  
3 follows:  
4 12. Records required of gunsmiths and dealers in firearms. In addition  
5 to the requirements set forth in article thirty-nine-BB of the general  
6 business law, any person licensed as gunsmith or dealer in firearms  
7 shall keep a record book approved as to form, except in the city of New  
8 York, by the superintendent of state police. In the record book shall be  
9 entered at the time of every transaction involving a firearm the date,  
10 name, age, occupation and residence of any person from whom a firearm is  
11 received or to whom a firearm is delivered, and the calibre, make,  
12 model, manufacturer's name and serial number, or if none, any other  
13 distinguishing number or identification mark on such firearm. Before  
14 delivering a firearm to any person, the licensee shall require him to  
15 produce either a license valid under this section to carry or possess  
16 the same, or proof of lawful authority as an exempt person pursuant to  
17 section 265.20 of this chapter and [~~either (a)~~] the National Instant  
18 Criminal Background Check System (NICS) or its successor [~~has~~] shall  
19 have issued a "proceed" response to the licensee[~~, or (b) thirty calendar days have elapsed since the date the licensee contacted NICS to~~  
20 ~~initiate a national instant criminal background check and NICS has not~~  
21 ~~notified the licensee that the transfer of the firearm to such person~~  
22 ~~should be denied~~]. In addition, before delivering a firearm to a peace  
23 officer, the licensee shall verify that person's status as a peace offi-  
24 cer with the division of state police. After completing the foregoing,  
25 the licensee shall remove and retain the attached coupon and enter in  
26

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

LBD14580-01-4

1 the record book the date of such license, number, if any, and name of  
2 the licensing officer, in the case of the holder of a license to carry  
3 or possess, or the shield or other number, if any, assignment and  
4 department, unit or agency, in the case of an exempt person. The  
5 original transaction report shall be forwarded to the division of state  
6 police within ten days of delivering a firearm to any person, and a  
7 duplicate copy shall be kept by the licensee. The superintendent of  
8 state police may designate that such record shall be completed and trans-  
9 mitted in electronic form. A dealer may be granted a waiver from trans-  
10 mitting such records in electronic form if the superintendent determines  
11 that such dealer is incapable of such transmission due to technological  
12 limitations that are not reasonably within the control of the dealer, or  
13 other exceptional circumstances demonstrated by the dealer, pursuant to  
14 a process established in regulation, and at the discretion of the super-  
15 intendent. Records assembled or collected for purposes of inclusion in  
16 the database created pursuant to section 400.02 of this article shall  
17 not be subject to disclosure pursuant to article six of the public offi-  
18 cers law. The record book shall be maintained on the premises mentioned  
19 and described in the license and shall be open at all reasonable hours  
20 for inspection by any peace officer, acting pursuant to his special  
21 duties, or police officer. In the event of cancellation or revocation of  
22 the license for gunsmith or dealer in firearms, or discontinuance of  
23 business by a licensee, such record book shall be immediately surren-  
24 dered to the licensing officer in the city of New York, and in the coun-  
25 ties of Nassau and Suffolk, and elsewhere in the state to the executive  
26 department, division of state police.

27 § 2. Section 400.20 of the penal law, as added by chapter 129 of the  
28 laws of 2019, is amended to read as follows:

29 § 400.20 Waiting period in connection with the sale or transfer of a  
30 rifle or shotgun.

31 When a national instant criminal background check is required pursuant  
32 to state or federal law to be conducted through the National Instant  
33 Criminal Background Check System (NICS) or its successor in connection  
34 with the sale or transfer of a rifle or shotgun to any person, before  
35 delivering a rifle or shotgun to such person, [~~either (a)~~] NICS [~~has~~  
36 shall have issued a "proceed" response to the seller or transferor [~~or~~  
37 ~~(b) thirty calendar days shall have elapsed since the date the seller or~~  
38 ~~transferor contacted NICS to initiate a national instant criminal back-~~  
39 ~~ground check and NICS has not notified the seller or transferor that the~~  
40 ~~transfer of the rifle or shotgun to such person should be denied~~].

41 § 3. Subdivision 1 of section 400.06 of the penal law, as added by  
42 chapter 371 of the laws of 2022, is amended to read as follows:

43 1. Any dealer in firearms or federal firearms licensee that sells,  
44 delivers or otherwise transfers any firearm, rifle, shotgun, or antique  
45 firearm shall contact the division of state police to conduct a national  
46 instant criminal background check pursuant to section two hundred twenty-  
47 eight of the executive law.

48 § 4. Paragraph (a) of subdivision 1 of section 228 of the executive  
49 law, as added by chapter 371 of the laws of 2022, is amended to read as  
50 follows:

51 (a) The division is hereby authorized and directed to serve as a state  
52 point of contact for implementation of 18 U.S.C. sec. 922 (t), all  
53 federal regulations and applicable guidelines adopted pursuant thereto,  
54 and the national instant criminal background check system for the  
55 purchase of firearms, rifles, shotguns, antique firearms, and ammuni-  
56 tion.

1 § 5. The opening paragraph and paragraph (c) of subdivision 4 of  
2 section 228 of the executive law, as added by chapter 371 of the laws of  
3 2022, are amended to read as follows:

4 The superintendent shall promulgate a plan to coordinate background  
5 checks for firearm, rifle, shotgun, antique firearm, and ammunition  
6 purchases pursuant to this section and to require any person, firm or  
7 corporation that sells, delivers or otherwise transfers any firearm,  
8 rifle, shotgun, antique firearm or ammunition to submit a request to the  
9 division in order to complete the background checks in compliance with  
10 federal and state law, including the National Instant Criminal Back-  
11 ground Check System (NICS), in New York state. Such plan shall include,  
12 but shall not be limited to, the following features:

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

20 § 6. Paragraphs i and ii of subdivision 7 of section 228 of the execu-  
21 tive law, as added by chapter 371 of the laws of 2022, are amended to  
22 read as follows:

23 i. any person, firm or corporation that sells, delivers or otherwise  
24 transfers firearms, rifles, or shotguns shall obtain a completed ATF  
25 4473 form from the potential buyer or transferee including name, date of  
26 birth, gender, race, social security number, or other identification  
27 numbers of such potential buyer or transferee and shall have inspected  
28 proper identification including an identification containing a photo-  
29 graph of the potential buyer or transferee.

30 ii. it shall be unlawful for any person, in connection with the sale,  
31 acquisition or attempted acquisition of a firearm, rifle, shotgun,  
32 antique firearm, or ammunition from any transferor, to willfully make  
33 any false, fictitious oral or written statement or to furnish or exhibit  
34 any false, fictitious, or misrepresented identification that is intended  
35 or likely to deceive such transferor with respect to any fact material  
36 to the lawfulness of the sale or other disposition of such firearm,  
37 rifle, shotgun, antique firearm, or ammunition under federal or state  
38 law. Any person who violates the provisions of this subparagraph shall  
39 be guilty of a class A misdemeanor.

40 § 7. Paragraph (c) of subdivision 1 of section 896 of the general  
41 business law, as amended by chapter 371 of the laws of 2022, is amended  
42 to read as follows:

43 (c) coordinate with the division of state police to provide access at  
44 the gun show to perform a national instant criminal background check  
45 prior to any firearm, rifle, shotgun, or antique firearm sale or trans-  
46 fer. Any firearm dealer or federal firearms licensee licensed under  
47 federal law who submits a request to the division of state police to  
48 perform a national instant criminal background check pursuant to this  
49 paragraph shall provide the seller or transferor of the firearm, rifle  
50 or shotgun with a copy of the United States Department of Treasury,  
51 Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer  
52 or licensee shall maintain such form and make such form available for  
53 inspection by law enforcement agencies for a period of ten years there-  
54 after.

1 § 8. Subdivision 1 of section 897 of the general business law, as  
2 amended by chapter 129 of the laws of 2019, is amended to read as  
3 follows:

4 1. A national instant criminal background check shall be conducted and  
5 no person shall sell or transfer a firearm, antique firearm, rifle or  
6 shotgun at a gun show, except in accordance with the provisions of 18  
7 U.S.C. 922(t), provided that before delivering a firearm, antique  
8 firearm, rifle or shotgun to any person[~~, either (a)~~] the National  
9 Instant Criminal Background Check System (NICS) or its successor [~~has~~]  
10 shall have issued a "proceed" response to the seller or transferor[~~, or~~  
11 ~~(b) thirty calendar days shall have elapsed since the date the seller or~~  
12 ~~transferor contacted NICS to initiate a national instant criminal back-~~  
13 ~~ground check and NICS has not notified the seller or transferor that the~~  
14 ~~transfer of the firearm, rifle or shotgun to such person should be~~  
15 ~~denied~~].

16 § 9. Subdivisions 1 and 2 of section 898 of the general business law,  
17 subdivision 1 as amended by chapter 129 of the laws of 2019, and subdi-  
18 vision 2 as amended by chapter 371 of the laws of 2022, are amended to  
19 read as follows:

20 1. In addition to any other requirements pursuant to state and federal  
21 law, all sales, exchanges or disposals of firearms, antique firearms,  
22 rifles or shotguns shall be conducted in accordance with this section  
23 unless such sale, exchange or disposal is conducted by a licensed  
24 importer, licensed manufacturer or licensed dealer, as those terms are  
25 defined in 18 USC § 922, when such sale, exchange or disposal is  
26 conducted pursuant to that person's federal firearms license or such  
27 sale, exchange or disposal is between members of an immediate family.  
28 When a sale, exchange or disposal is conducted pursuant to a person's  
29 federal firearms license, before delivering a firearm, antique firearm,  
30 rifle or shotgun to any person[~~, either (a)~~] the National Instant Crimi-  
31 nal Background Check System (NICS) or its successor [~~has~~] shall have  
32 issued a "proceed" response to the federal firearms licensee[~~, or (b)~~  
33 ~~thirty calendar days shall have elapsed since the date the federal~~  
34 ~~firearms licensee contacted NICS to initiate a national instant criminal~~  
35 ~~background check and NICS has not notified the federal firearms licensee~~  
36 ~~that the transfer of the firearm, rifle or shotgun to such person should~~  
37 ~~be denied~~]. For purposes of this section, "immediate family" shall mean  
38 spouses, domestic partners, children and step-children.

39 2. Before any sale, exchange or disposal pursuant to this article, a  
40 national instant criminal background check must be completed by a dealer  
41 who shall submit a request to the division of state police pursuant to  
42 section two hundred twenty-eight of the executive law to conduct such  
43 check. Before a dealer who has submitted a request to the division of  
44 state police to conduct a national instant criminal background check  
45 delivers a firearm, antique firearm, rifle or shotgun to any person[~~,~~  
46 ~~either (a)~~] NICS shall have issued a "proceed" response[~~, or (b) thirty~~  
47 ~~calendar days shall have elapsed since the date the dealer submitted a~~  
48 ~~request to the division of state police to contact the NICS to initiate~~  
49 ~~a national instant criminal background check and NICS has not notified~~  
50 ~~the division of state police that the transfer of the firearm, rifle or~~  
51 ~~shotgun to such person should be denied~~].

52 § 10. This act shall take effect immediately.