

STATE OF NEW YORK

4511

2023-2024 Regular Sessions

IN ASSEMBLY

February 16, 2023

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

AN ACT to amend the penal law, in relation to prohibiting the provision of licenses for firearms to persons on the federal no-fly list or terrorist screening database; to amend the criminal procedure law, in relation to revoking or suspending firearms licenses of persons on the federal no-fly list or terrorist screening database; and to amend the executive law, in relation to requiring the superintendent of state police to search the federal no-fly list or terrorist screening database and report findings to appropriate enforcement agencies

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

1 Section 1. This act shall be known and may be cited as the "Deny
2 Firearms to Dangerous Terrorists Act".

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

6 1. Eligibility. No license shall be issued or renewed pursuant to this
7 section except by the licensing officer, and then only after investi-
8 gation and finding that all statements in a proper application for a
9 license are true. No license shall be issued or renewed except for an
10 applicant (a) twenty-one years of age or older, provided, however, that
11 where such applicant has been honorably discharged from the United
12 States army, navy, marine corps, air force or coast guard, or the
13 national guard of the state of New York, no such age restriction shall
14 apply; (b) of good moral character, which, for the purposes of this
15 article, shall mean having the essential character, temperament and
16 judgement necessary to be entrusted with a weapon and to use it only in
17 a manner that does not endanger oneself or others; (c) who has not been
18 convicted anywhere of a felony or a serious offense or who is not the
19 subject of an outstanding warrant of arrest issued upon the alleged

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

LBD07054-01-3

1 commission of a felony or serious offense; (d) who is not a fugitive
2 from justice; (e) who is not an unlawful user of or addicted to any
3 controlled substance as defined in section 21 U.S.C. 802; (f) who being
4 a noncitizen (i) is not illegally or unlawfully in the United States or
5 (ii) has not been admitted to the United States under a nonimmigrant
6 visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not
7 been discharged from the Armed Forces under dishonorable conditions; (h)
8 who, having been a citizen of the United States, has not renounced his
9 or her citizenship; (i) who has stated whether he or she has ever
10 suffered any mental illness; (j) who has not been involuntarily commit-
11 ted to a facility under the jurisdiction of an office of the department
12 of mental hygiene pursuant to article nine or fifteen of the mental
13 hygiene law, article seven hundred thirty or section 330.20 of the crim-
14 inal procedure law or substantially similar laws of any other state,
15 section four hundred two or five hundred eight of the correction law,
16 section 322.2 or 353.4 of the family court act, has not been civilly
17 confined in a secure treatment facility pursuant to article ten of the
18 mental hygiene law, or has not been the subject of a report made pursu-
19 ant to section 9.46 of the mental hygiene law; (k) who has not had a
20 license revoked or who is not under a suspension or ineligibility order
21 issued pursuant to the provisions of section 530.14 of the criminal
22 procedure law or section eight hundred forty-two-a of the family court
23 act; (l) in the county of Westchester, who has successfully completed a
24 firearms safety course and test as evidenced by a certificate of
25 completion issued in his or her name and endorsed and affirmed under the
26 penalties of perjury by a duly authorized instructor, except that: (i)
27 persons who are honorably discharged from the United States army, navy,
28 marine corps or coast guard, or of the national guard of the state of
29 New York, and produce evidence of official qualification in firearms
30 during the term of service are not required to have completed those
31 hours of a firearms safety course pertaining to the safe use, carrying,
32 possession, maintenance and storage of a firearm; (ii) persons who were
33 licensed to possess a pistol or revolver prior to the effective date of
34 this paragraph are not required to have completed a firearms safety
35 course and test, provided, however, persons with a license issued under
36 paragraph (f) of subdivision two of this section prior to the effective
37 date of ~~[the laws]~~ chapter three hundred seventy-one of the laws of two
38 thousand twenty-two ~~[which amended this paragraph]~~ shall be required to
39 complete the training required by subdivision nineteen of this section
40 prior to the recertification of such license; and (iii) persons applying
41 for a license under paragraph (f) of subdivision two of this section on
42 or after the effective date of ~~[the]~~ chapter three hundred seventy-one
43 of the laws of two thousand twenty-two ~~[which amended this paragraph]~~
44 who shall be required to complete the training required under subdivi-
45 sion nineteen of this section for such license; (m) who has not had a
46 guardian appointed for him or her pursuant to any provision of state
47 law, based on a determination that as a result of marked subnormal
48 intelligence, mental illness, incompetency, incapacity, condition or
49 disease, he or she lacks the mental capacity to contract or manage his
50 or her own affairs; (n) for a license issued under paragraph (f) of
51 subdivision two of this section, that the applicant has not been
52 convicted within five years of the date of the application of any of the
53 following: (i) assault in the third degree, as defined in section 120.00
54 of this chapter; (ii) misdemeanor driving while intoxicated, as defined
55 in section eleven hundred ninety-two of the vehicle and traffic law; or
56 (iii) menacing, as defined in section 120.15 of this chapter; ~~[and]~~ (o)

1 for a license issued under paragraph (f) of subdivision two of this
2 section, the applicant shall meet in person with the licensing officer
3 for an interview and shall, in addition to any other information or
4 forms required by the license application submit to the licensing offi-
5 cer the following information: (i) names and contact information for the
6 applicant's current spouse, or domestic partner, any other adults resid-
7 ing in the applicant's home, including any adult children of the appli-
8 cant, and whether or not there are minors residing, full time or part
9 time, in the applicant's home; (ii) names and contact information of no
10 less than four character references who can attest to the applicant's
11 good moral character and that such applicant has not engaged in any
12 acts, or made any statements that suggest they are likely to engage in
13 conduct that would result in harm to themselves or others; (iii) certif-
14 ication of completion of the training required in subdivision nineteen
15 of this section; (iv) a list of former and current social media accounts
16 of the applicant from the past three years to confirm the information
17 regarding the applicants character and conduct as required in subpara-
18 graph (ii) of this paragraph; and (v) such other information required by
19 the licensing officer that is reasonably necessary and related to the
20 review of the licensing application; and (p) who has not been listed on
21 the federal no-fly list or terrorist screening database operated by the
22 federal bureau of investigation.

23 § 3. Section 530.14 of the criminal procedure law is amended by adding
24 a new subdivision 3-a to read as follows:

25 3-a. Revocation or suspension of license upon a finding that the hold-
26 er of the firearm license is a suspected terrorist. Where the division
27 of state police finds that a holder of a firearm license is listed on
28 the federal no-fly list or terrorist screening database operated by the
29 federal bureau of investigation, the division of state police shall
30 immediately revoke the holder's license. The individual shall be noti-
31 fied in writing within thirty days of the revocation.

32 § 4. Section 223 of the executive law is amended by adding a new
33 subdivision 3 to read as follows:

34 3. The superintendent shall search the federal no-fly list or terror-
35 ist screening database at least once each year and upon a finding that a
36 firearm license holder is on such a list, the superintendent shall imme-
37 diately notify all appropriate law enforcement agencies and shall direct
38 the state police to remove any and all such firearms until such time
39 that the individual is no longer on the federal no-fly list or terrorist
40 screening database.

41 § 5. Section 223 of the executive law, as amended by section 3-b of
42 part MM of chapter 54 of the laws of 2016, is amended to read as
43 follows:

44 § 223. Duties and powers of the superintendent of state police and of
45 members of the state police. 1. It shall be the duty of the superinten-
46 dent of the state police and of members of the state police to prevent
47 and detect crime and apprehend criminals. They shall also be subject to
48 the call of the governor and are empowered to co-operate with any other
49 department of the state or with local authorities. They shall also
50 collect and analyze information relating to prevention and detection of
51 terrorist threats and terrorist activities throughout the state and
52 share all such information subject to paragraph (g) of subdivision two
53 of section seven hundred nine of this chapter among the division of
54 homeland security and emergency services and local, state, and federal
55 law enforcement agencies to ensure the coordination of appropriate
56 intelligence to assist in the early identification of and response to

1 potential terrorist threats and terrorist activities. They shall have
2 power to arrest, without a warrant, any person committing or attempting
3 to commit within their presence or view a breach of the peace or other
4 violation of law, to serve and execute warrants of arrest or search
5 issued by proper authority and to exercise all other powers of police
6 officers of the state of New York. Any such warrants issued by any
7 magistrate of the state may be executed by them in any part of the state
8 according to the tenor thereof without [~~indorsement~~] endorsement. But
9 they shall not exercise their powers within the limits of any city to
10 suppress rioting and disorder except by direction of the governor or
11 upon the request of the mayor of the city with the approval of the
12 governor. Any member of the rank of sergeant or above may take pre-ar-
13 raignment bail from any defendant in the amounts and under the circum-
14 stances and conditions that police may take bail.

15 2. The superintendent shall search the federal no-fly list or terror-
16 ist screening database at least once each year and upon a finding that a
17 firearm license holder is on such a list, the superintendent shall imme-
18 diately notify all appropriate law enforcement agencies and shall direct
19 the state police to remove any and all such firearms until such time
20 that the individual is no longer on the federal no-fly list or terrorist
21 screening database.

22 § 6. The superintendent of state police and the commissioner of crimi-
23 nal justice services shall promulgate any regulations necessary for the
24 provisions of this act to take effect.

25 § 7. This act shall take effect immediately; provided however, the
26 provisions of this act shall not take effect until the superintendent of
27 state police receives approval to access the information on the federal
28 no-fly list or terrorist screening database from the relevant federal
29 agencies; provided further that the amendments to section 223 of the
30 executive law made by section four of this act shall be subject to the
31 expiration and reversion of such section pursuant to section 3 of chap-
32 ter 428 of the laws of 1999, as amended, when upon such date the
33 provisions of section five of this act shall take effect; provided that
34 the superintendent of state police shall notify the legislative bill
35 drafting commission upon the occurrence of the enactment of the legis-
36 lation provided for in this act in order that the commission may main-
37 tain an accurate and timely effective database of the official text of
38 the laws of the state of New York in furtherance of effectuating the
39 provisions of section 44 of the legislative law and section 70-b of the
40 public officers law.