STATE OF NEW YORK

7873

2023-2024 Regular Sessions

IN ASSEMBLY

July 7, 2023

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:

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 to read as follows:

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

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

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been discharged from the Armed Forces under dishonorable conditions; (h) who, having been a citizen of the United States, has not renounced his or her citizenship; (i) who has stated whether he or she has ever suffered any mental illness; (j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law or substantially similar laws of any other state, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law, or has not been the subject of a report made pursuant to section 9.46 of the mental hygiene law; (k) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (l) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test, provided, however, persons with a license issued under paragraph (f) of subdivision two of this section prior to the effective date of the laws of two thousand twenty-two which amended this paragraph shall be required to complete the training required by subdivision nineteen of this section prior to the recertification of such license; and (iii) persons applying for a license under paragraph (f) of subdivision two of this section on or after the effective date of the chapter of the laws of two thousand twenty-two which amended this paragraph who shall be required to complete the training required under subdivision nineteen of this section for such license; (m) who has not had a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incompetency, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs; (n) **who is not named on the No Fly List maintained by the Terrorist Screening Center administrered by the Federal Bureau of Investigation; (o)** for a license issued under paragraph (f) of subdivision two of this section, that the applicant has not been convicted within five years of the date of the application of any of the following: (i) assault in the third degree, as defined in section 120.00 of this chapter; (ii) misdemeanor driving while intoxicated, as defined in section eleven hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as defined in section 120.15 of this chapter; and [~~(o)~~] **(p)** for a license issued under paragraph (f) of subdivision two of this section, the applicant shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information: (i) names and contact information for the

applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicant's home; (ii) names and contact information of no less than four character references who can attest to the applicant's good moral character and that such applicant has not engaged in any acts, or made any statements that suggest they are likely to engage in conduct that would result in harm to themselves or others; (iii) certification of completion of the training required in subdivision nineteen of this section; (iv) a list of former and current social media accounts of the applicant from the past three years to confirm the information regarding the applicants character and conduct as required in subparagraph (ii) of this paragraph; and (v) such other information required by the licensing officer that is reasonably necessary and related to the review of the licensing application.

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

4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to section 400.02 of this article. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. Where the applicant is domiciled in a foreign state, the investigation shall include inquiry of the foreign state for records concerning the previous or present mental illness of the applicant, and, to the extent necessary for inspection by the investigating officer, the applicant shall execute a waiver of confidentiality of such record in such form as may be required by the foreign state. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search shall be forwarded to the investigating officer and shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and

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

§ 3. This act shall take effect immediately.