

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:

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2 REPEALED.

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

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

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

22 2. (a) The division shall report the name, date of birth and physical
23 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

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

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

7 (c) Any background check conducted by the division, or delegated
8 authority, of any applicant for a permit, firearms identification card,
9 license, [~~ammunition sale,~~] or registration, in accordance with the
10 requirements of section 400.00 of the penal law, shall not be considered
11 a public record and shall not be disclosed to any person not authorized
12 by law or this chapter to have access to such background check, includ-
13 ing the applicant. Any application for a permit, firearms identification
14 card, [~~ammunition sale,~~] or license, and any document reflecting the
15 issuance or denial of such permit, firearms identification card, or
16 license, and any permit, firearms identification card, license, certif-
17 ication, certificate, form of register, or registration statement, main-
18 tained by any state or municipal governmental agency, shall not be
19 considered a public record and shall not be disclosed to any person not
20 authorized by law to have access to such documentation, including the
21 applicant, except on the request of persons acting in their governmental
22 capacities for purposes of the administration of justice.

23 3. The division shall create and maintain a statewide firearms license
24 and records database which shall contain records held by the division
25 and any records that it is authorized to request from the division of
26 criminal justice services, office of court administration, New York
27 state department of health, New York state office of mental health, and
28 other local entities. Such database shall be used for the certification
29 and recertification of firearm permits under section 400.02 of the penal
30 law, and assault weapon registration under subdivision sixteen-a of
31 section 400.00 of the penal law[~~, and ammunition sales under section~~
32 ~~400.03 of the penal law~~]. Such database shall also be used to initiate a
33 national instant criminal background check pursuant to subdivision one
34 of this section upon request from a licensed dealer. The division may
35 create and maintain additional databases as needed to complete back-
36 ground checks pursuant to the requirements of this section. The cost of
37 any database or databases created shall be borne entirely by the state
38 and shall not be passed on to consumers or retailers in the form of new
39 fees or additional taxes.

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

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

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

3 (b) Procedures for carrying out the duties under this section, includ-
4 ing hours of operation.

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

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

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

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

16 § 6. This act shall take effect immediately.