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 Assembly, do enact as follows:

Section 1. Subdivision 1 of section 898 of the general business law, as amended by chapter 129 of the laws of 2019, is amended to read as follows:

1. In addition to any other requirements pursuant to state and federal law, all sales, exchanges or disposals of firearms, rifles or shotguns shall be conducted in accordance with this section unless such sale, exchange or disposal is conducted by a licensed importer, licensed manufacturer or licensed dealer, as those terms are defined in 18 USC § 922, when such sale, exchange or disposal is conducted pursuant to that person's federal firearms license or such sale, exchange or disposal is between members of an immediate family **or such exchange or transfer is pursuant to a decedent's will and/or probate order, directing such exchange or transfer to a person who qualifies under this section**. When a sale, exchange or disposal is conducted pursuant to a person's federal firearms license, before delivering a firearm, rifle or shotgun to any person, either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the federal firearms licensee, or (b) thirty calendar days shall have elapsed since the date the federal firearms licensee contacted NICS to initiate a national instant criminal background check and NICS has not notified the federal firearms licensee that the transfer of the firearm, rifle or 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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"immediate family" shall mean spouses, domestic partners, children and step-children.

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

(h) Any weapon defined in paragraph (e) or (f) of this subdivision may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported to the entity wherein the weapon is registered within seventy-two hours of such transfer. **Such permissible sale, exchange or disposal of any weapon defined in paragraph (e) or (f) of this subdivision that was legally possessed by an individual prior to the enactment of chapter one of the laws of two thousand thirteen which added this paragraph shall also include a member of the transferor's immediate family, who resides either within or outside the state of New York, and shall include transfers made pursuant to a decedent's will and/or probate order, directing such exchange or transfer to a person who qualifies under this section, whether that person resides inside or outside the state of New York. Such permissible sale, exchange or disposal of any weapon defined in paragraph (e) or (f) of this subdivision, to an immediate family member as defined in section eight hundred ninety-eight of the general business law, and such permissible transfers made pursuant to a decedent's will and/or probate order, directing such exchange or transfer to a person who qualifies under this section, shall not include transfers of large capacity ammunition feeding devices as the expression, 'large capacity ammunition feeding device' is defined in subdivision twenty-three of this section.** An individual who transfers any such weapon to an individual inside New York state or without complying with the provisions of this paragraph shall be guilty of a class A misdemeanor.

§ 3. This act shall take effect immediately.