

STATE OF NEW YORK

5763

2023-2024 Regular Sessions

IN SENATE

March 15, 2023

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the environmental conservation law, in relation to establishing additional requirements to purchase a firearm, shotgun or rifle

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

1 Section 1. Subdivisions 1 and 4-c of section 400.00 of the penal law,
2 subdivision 1 as separately amended by chapters 371 and 669 of the laws
3 of 2022, and subdivision 4-c as amended by chapter 371 of the laws of
4 2022, are amended to read as follows:

5 1. Eligibility. No license shall be issued or renewed pursuant to this
6 section except by the licensing officer, and then only after investi-
7 gation and finding that all statements in a proper application for a
8 license are true. No license shall be issued or renewed except for an
9 applicant (a) twenty-one years of age or older, provided, however, that
10 where such applicant has been honorably discharged from the United
11 States army, navy, marine corps, air force or coast guard, or the
12 national guard of the state of New York, no such age restriction shall
13 apply; (b) of good moral character, which, for the purposes of this
14 article, shall mean having the essential character, temperament and
15 judgement necessary to be entrusted with a weapon and to use it only in
16 a manner that does not endanger oneself or others; (c) who has not been
17 convicted anywhere of a felony or a serious offense or who is not the
18 subject of an outstanding warrant of arrest issued upon the alleged
19 commission of a felony or serious offense; (d) who is not a fugitive
20 from justice; (e) who is not an unlawful user of or addicted to any
21 controlled substance as defined in section 21 U.S.C. 802 and has
22 provided notarized proof of a passed drug test by a licensed physician;
23 (f) who being a noncitizen (i) is not illegally or unlawfully in the
24 United States or (ii) has not been admitted to the United States under a

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

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

1 application submit to the licensing officer the following information:
2 (i) names and contact information for the applicant's current spouse, or
3 domestic partner, any other adults residing in the applicant's home,
4 including any adult children of the applicant, and whether or not there
5 are minors residing, full time or part time, in the applicant's home;
6 (ii) names and contact information of no less than four character refer-
7 ences who can attest to the applicant's good moral character and that
8 such applicant has not engaged in any acts, or made any statements that
9 suggest they are likely to engage in conduct that would result in harm
10 to themselves or others; (iii) certification of completion of the train-
11 ing required in subdivision nineteen of this section; (iv) a list of
12 former and current social media accounts of the applicant from the past
13 three years to confirm the information regarding the applicants charac-
14 ter and conduct as required in subparagraph (ii) of this paragraph; and
15 (v) such other information required by the licensing officer that is
16 reasonably necessary and related to the review of the licensing applica-
17 tion; (p) who has successfully completed live firing instruction and a
18 test with at least ninety percent accuracy at a shooting range using the
19 type of firearm he or she anticipates purchasing, possessing or acquir-
20 ing; and (q) has purchased a safe storage depository for his or her
21 firearms and ammunition as evidenced by a receipt of such purchase. For
22 the purposes of this subdivision, "safe storage depository" shall mean a
23 safe or other secure container which, when locked, is incapable of being
24 opened without the key, combination or other unlocking mechanism and is
25 capable of preventing an unauthorized person from obtaining access to
26 and possession of the weapon or ammunition contained therein.

27 4-c. [~~Westchester county firearms~~] Firearms safety course certificate.
28 [~~In the county of Westchester, at~~] At the time of application, the
29 licensing officer to which the license application is made shall provide
30 a copy of the five hour safety course booklet to each license applicant.
31 Before such license is issued, such licensing officer shall require that
32 the applicant submit a certificate of successful completion of a five
33 hour firearms safety course and test issued in his or her name and
34 endorsed and affirmed under the penalties of perjury by a duly author-
35 ized instructor.

36 § 2. The penal law is amended by adding a new section 400.25 to read
37 as follows:

38 § 400.25 Purchase of rifles and shotguns.

39 1. Prior to the purchase of any rifle or shotgun, a person shall apply
40 for a hunting license pursuant to article eleven of the environmental
41 conservation law.

42 2. In addition to the requirements required by article eleven of the
43 environmental conservation law, no hunting license for the purchase of a
44 rifle or shotgun shall be issued except for an applicant: (a) who is not
45 an unlawful user of or addicted to any controlled substance as defined
46 in section 21 U.S.C. 802 and has provided notarized proof of a passed
47 drug test by a licensed physician; (b) who has stated whether he or she
48 has ever suffered any mental illness and has provided notarized proof of
49 a passed mental health evaluation by a licensed physician; (c) who has
50 successfully completed a five hour firearms safety course and test as
51 evidenced by a certificate of completion issued in his or her name and
52 endorsed and affirmed under the penalties of perjury by a duly author-
53 ized instructor, except that persons who are honorably discharged from
54 the United States army, navy, marine corps or coast guard, or of the
55 national guard of the state of New York, and produce evidence of offi-
56 cial qualification in firearms during the term of service are not

1 required to have completed those hours of a firearms safety course
2 pertaining to the safe use, carrying, possession, maintenance and stor-
3 age of firearms, shotguns and rifles; (d) who has successfully completed
4 live firing instruction and a test with at least ninety percent accuracy
5 at a shooting range using the type of rifle or shotgun he or she antic-
6 ipates purchasing, possessing or acquiring; (e) who does not have a
7 criminal record which would otherwise disqualify him or her from
8 purchasing a shotgun or rifle; and (f) has purchased a safe storage
9 depository for his or her rifle or shotgun and ammunition as evidenced
10 by a receipt of such purchase. For the purposes of this section, "safe
11 storage depository" shall mean a safe or other secure container which,
12 when locked, is incapable of being opened without the key, combination
13 or other unlocking mechanism and is capable of preventing an unauthor-
14 ized person from obtaining access to and possession of the weapon or
15 ammunition contained therein.

16 3. Before a license is issued, there shall be an investigation of all
17 statements related to the requirements of this section by the duly
18 constituted police authorities of the locality where such application is
19 made. For that purpose, the records of the appropriate office of the
20 department of mental hygiene concerning previous or present mental
21 illness of the applicant shall be available for inspection by the inves-
22 tigating officer of the police authority. In order to ascertain any
23 previous criminal record, the investigating officer shall take the fing-
24 erprints and physical descriptive data in quadruplicate of each individ-
25 ual by whom the application is made. Two copies of such fingerprints
26 shall be taken on standard fingerprint cards eight inches square, and
27 one copy may be taken on a card supplied for that purpose by the federal
28 bureau of investigation. When completed, one standard card shall be
29 forwarded to and retained by the division of criminal justice services
30 in the executive department, at Albany. A search of the files of such
31 division and written notification of the results of the search to the
32 investigating officer shall be made without unnecessary delay. Thereaft-
33 er, such division shall notify the issuing officer and the executive
34 department, division of state police, Albany, of any criminal record of
35 the applicant filed therein subsequent to the search of its files. A
36 second standard card, or the one supplied by the federal bureau of
37 investigation, as the case may be, shall be forwarded to that bureau at
38 Washington with a request that the files of the bureau be searched and
39 notification of the results of the search be made to the investigating
40 police authority. Of the remaining two fingerprint cards, one shall be
41 filed with the executive department, division of state police, Albany,
42 within ten days after issuance of the license, and the other remain on
43 file with the investigating police authority. No such fingerprints may
44 be inspected by any person other than a peace officer, who is acting
45 pursuant to his special duties, or a police officer, except on order of
46 a judge or justice of a court of record either upon notice to the licen-
47 see or without notice, as the judge or justice may deem appropriate.
48 Upon completion of the investigation, the police authority shall report
49 the results to the issuing officer without unnecessary delay.

50 4. In acting upon an application, the issuing officer shall either
51 deny the application for reasons specifically and concisely stated in
52 writing or grant the application and issue the license applied for.

53 § 3. Subdivision 1 of section 11-0701 of the environmental conserva-
54 tion law is amended by adding a new paragraph c to read as follows:

1 c. entitles the holder to purchase a rifle or shotgun provided such
2 holder meets the requirements of section 400.25 of the penal law or any
3 other related provision of law.

4 § 4. Subdivision 3 of section 11-0713 of the environmental conserva-
5 tion law is amended by adding a new paragraph a-1 to read as follows:

6 a-1. The issuing officer shall not issue a hunting license for the
7 purchase of a rifle or shotgun to any person unless the applicant
8 presents proof that he or she meets the requirements of section 400.25
9 of the penal law.

10 § 5. This act shall take effect on the one hundred eightieth day after
11 it shall have become a law. Effective immediately the addition, amend-
12 ment and/or repeal of any rule or regulation necessary for the implemen-
13 tation of this act on its effective date is authorized to be made and
14 completed on or before such effective date.