

STATE OF NEW YORK

9751

IN SENATE

May 28, 2024

Introduced by Sen. RYAN -- (at request of the Division of State Police)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Codes

AN ACT to amend the penal law, the executive law and the general busi-
ness law, in relation to background checks conducted by the division
of state police

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

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as
2 amended by chapter 207 of the laws of 2022, is amended to read as
3 follows:
4 12. Records required of gunsmiths and dealers in firearms. In addition
5 to the requirements set forth in article thirty-nine-BB of the general
6 business law, any person licensed as gunsmith or dealer in firearms
7 shall keep a record book approved as to form, except in the city of New
8 York, by the superintendent of state police. In the record book shall be
9 entered at the time of every transaction involving a firearm the date,
10 name, age, occupation and residence of any person from whom a firearm is
11 received or to whom a firearm is delivered, and the calibre, make,
12 model, manufacturer's name and serial number, or if none, any other
13 distinguishing number or identification mark on such firearm. Before
14 delivering a firearm to any person, the licensee shall require him to
15 produce either a license valid under this section to carry or possess
16 the same, or proof of lawful authority as an exempt person pursuant to
17 section 265.20 of this chapter and [~~either (a)~~] the National Instant
18 Criminal Background Check System (NICS) or its successor [~~has~~] shall
19 have issued a "proceed" response to the licensee[~~, or (b) thirty calen-~~
20 ~~dar days have elapsed since the date the licensee contacted NICS to~~
21 ~~initiate a national instant criminal background check and NICS has not~~
22 ~~notified the licensee that the transfer of the firearm to such person~~
23 ~~should be denied~~]. In addition, before delivering a firearm to a peace
24 officer, the licensee shall verify that person's status as a peace offi-
25 cer with the division of state police. After completing the foregoing,
26 the licensee shall remove and retain the attached coupon and enter in

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

LBD14580-01-4

1 the record book the date of such license, number, if any, and name of
2 the licensing officer, in the case of the holder of a license to carry
3 or possess, or the shield or other number, if any, assignment and
4 department, unit or agency, in the case of an exempt person. The
5 original transaction report shall be forwarded to the division of state
6 police within ten days of delivering a firearm to any person, and a
7 duplicate copy shall be kept by the licensee. The superintendent of
8 state police may designate that such record shall be completed and trans-
9 mitted in electronic form. A dealer may be granted a waiver from trans-
10 mitting such records in electronic form if the superintendent determines
11 that such dealer is incapable of such transmission due to technological
12 limitations that are not reasonably within the control of the dealer, or
13 other exceptional circumstances demonstrated by the dealer, pursuant to
14 a process established in regulation, and at the discretion of the super-
15 intendent. Records assembled or collected for purposes of inclusion in
16 the database created pursuant to section 400.02 of this article shall
17 not be subject to disclosure pursuant to article six of the public offi-
18 cers law. The record book shall be maintained on the premises mentioned
19 and described in the license and shall be open at all reasonable hours
20 for inspection by any peace officer, acting pursuant to his special
21 duties, or police officer. In the event of cancellation or revocation of
22 the license for gunsmith or dealer in firearms, or discontinuance of
23 business by a licensee, such record book shall be immediately surren-
24 dered to the licensing officer in the city of New York, and in the coun-
25 ties of Nassau and Suffolk, and elsewhere in the state to the executive
26 department, division of state police.

27 § 2. Section 400.20 of the penal law, as added by chapter 129 of the
28 laws of 2019, is amended to read as follows:

29 § 400.20 Waiting period in connection with the sale or transfer of a
30 rifle or shotgun.

31 When a national instant criminal background check is required pursuant
32 to state or federal law to be conducted through the National Instant
33 Criminal Background Check System (NICS) or its successor in connection
34 with the sale or transfer of a rifle or shotgun to any person, before
35 delivering a rifle or shotgun to such person, [~~either (a)~~] NICS [~~has~~
36 shall have issued a "proceed" response to the seller or transferor [~~or~~
37 ~~(b) thirty calendar days shall have elapsed since the date the seller or~~
38 ~~transferor contacted NICS to initiate a national instant criminal back-~~
39 ~~ground check and NICS has not notified the seller or transferor that the~~
40 ~~transfer of the rifle or shotgun to such person should be denied~~].

41 § 3. Subdivision 1 of section 400.06 of the penal law, as added by
42 chapter 371 of the laws of 2022, is amended to read as follows:

43 1. Any dealer in firearms or federal firearms licensee that sells,
44 delivers or otherwise transfers any firearm, rifle, shotgun, or antique
45 firearm shall contact the division of state police to conduct a national
46 instant criminal background check pursuant to section two hundred twenty-
47 eight of the executive law.

48 § 4. Paragraph (a) of subdivision 1 of section 228 of the executive
49 law, as added by chapter 371 of the laws of 2022, is amended to read as
50 follows:

51 (a) The division is hereby authorized and directed to serve as a state
52 point of contact for implementation of 18 U.S.C. sec. 922 (t), all
53 federal regulations and applicable guidelines adopted pursuant thereto,
54 and the national instant criminal background check system for the
55 purchase of firearms, rifles, shotguns, antique firearms, and ammuni-
56 tion.

1 § 5. The opening paragraph and paragraph (c) of subdivision 4 of
2 section 228 of the executive law, as added by chapter 371 of the laws of
3 2022, are amended to read as follows:

4 The superintendent shall promulgate a plan to coordinate background
5 checks for firearm, rifle, shotgun, antique firearm, and ammunition
6 purchases pursuant to this section and to require any person, firm or
7 corporation that sells, delivers or otherwise transfers any firearm,
8 rifle, shotgun, antique firearm or ammunition to submit a request to the
9 division in order to complete the background checks in compliance with
10 federal and state law, including the National Instant Criminal Back-
11 ground Check System (NICS), in New York state. Such plan shall include,
12 but shall not be limited to, the following features:

13 (c) An automated phone system and web-based application system,
14 including a toll-free telephone number and/or web-based application
15 option for any licensed dealer or federal firearms licensee requesting a
16 background check in order to sell, deliver or otherwise transfer a
17 firearm, rifle, shotgun, antique firearm, or ammunition which shall be
18 operational every day that the bureau is open for business for the
19 purpose of responding to requests in accordance with this section.

20 § 6. Paragraphs i and ii of subdivision 7 of section 228 of the execu-
21 tive law, as added by chapter 371 of the laws of 2022, are amended to
22 read as follows:

23 i. any person, firm or corporation that sells, delivers or otherwise
24 transfers firearms, rifles, or shotguns shall obtain a completed ATF
25 4473 form from the potential buyer or transferee including name, date of
26 birth, gender, race, social security number, or other identification
27 numbers of such potential buyer or transferee and shall have inspected
28 proper identification including an identification containing a photo-
29 graph of the potential buyer or transferee.

30 ii. it shall be unlawful for any person, in connection with the sale,
31 acquisition or attempted acquisition of a firearm, rifle, shotgun,
32 antique firearm, or ammunition from any transferor, to willfully make
33 any false, fictitious oral or written statement or to furnish or exhibit
34 any false, fictitious, or misrepresented identification that is intended
35 or likely to deceive such transferor with respect to any fact material
36 to the lawfulness of the sale or other disposition of such firearm,
37 rifle, shotgun, antique firearm, or ammunition under federal or state
38 law. Any person who violates the provisions of this subparagraph shall
39 be guilty of a class A misdemeanor.

40 § 7. Paragraph (c) of subdivision 1 of section 896 of the general
41 business law, as amended by chapter 371 of the laws of 2022, is amended
42 to read as follows:

43 (c) coordinate with the division of state police to provide access at
44 the gun show to perform a national instant criminal background check
45 prior to any firearm, rifle, shotgun, or antique firearm sale or trans-
46 fer. Any firearm dealer or federal firearms licensee licensed under
47 federal law who submits a request to the division of state police to
48 perform a national instant criminal background check pursuant to this
49 paragraph shall provide the seller or transferor of the firearm, rifle
50 or shotgun with a copy of the United States Department of Treasury,
51 Bureau of Alcohol, Tobacco and Firearms Form ATF F 4473 and such dealer
52 or licensee shall maintain such form and make such form available for
53 inspection by law enforcement agencies for a period of ten years there-
54 after.

1 § 8. Subdivision 1 of section 897 of the general business law, as
2 amended by chapter 129 of the laws of 2019, is amended to read as
3 follows:

4 1. A national instant criminal background check shall be conducted and
5 no person shall sell or transfer a firearm, antique firearm, rifle or
6 shotgun at a gun show, except in accordance with the provisions of 18
7 U.S.C. 922(t), provided that before delivering a firearm, antique
8 firearm, rifle or shotgun to any person[~~, either (a)~~] the National
9 Instant Criminal Background Check System (NICS) or its successor [~~has~~]
10 shall have issued a "proceed" response to the seller or transferor[~~, or~~
11 ~~(b) thirty calendar days shall have elapsed since the date the seller or~~
12 ~~transferor contacted NICS to initiate a national instant criminal back-~~
13 ~~ground check and NICS has not notified the seller or transferor that the~~
14 ~~transfer of the firearm, rifle or shotgun to such person should be~~
15 ~~denied~~].

16 § 9. Subdivisions 1 and 2 of section 898 of the general business law,
17 subdivision 1 as amended by chapter 129 of the laws of 2019, and subdi-
18 vision 2 as amended by chapter 371 of the laws of 2022, are amended to
19 read as follows:

20 1. In addition to any other requirements pursuant to state and federal
21 law, all sales, exchanges or disposals of firearms, antique firearms,
22 rifles or shotguns shall be conducted in accordance with this section
23 unless such sale, exchange or disposal is conducted by a licensed
24 importer, licensed manufacturer or licensed dealer, as those terms are
25 defined in 18 USC § 922, when such sale, exchange or disposal is
26 conducted pursuant to that person's federal firearms license or such
27 sale, exchange or disposal is between members of an immediate family.
28 When a sale, exchange or disposal is conducted pursuant to a person's
29 federal firearms license, before delivering a firearm, antique firearm,
30 rifle or shotgun to any person[~~, either (a)~~] the National Instant Crimi-
31 nal Background Check System (NICS) or its successor [~~has~~] shall have
32 issued a "proceed" response to the federal firearms licensee[~~, or (b)~~
33 ~~thirty calendar days shall have elapsed since the date the federal~~
34 ~~firearms licensee contacted NICS to initiate a national instant criminal~~
35 ~~background check and NICS has not notified the federal firearms licensee~~
36 ~~that the transfer of the firearm, rifle or shotgun to such person should~~
37 ~~be denied~~]. For purposes of this section, "immediate family" shall mean
38 spouses, domestic partners, children and step-children.

39 2. Before any sale, exchange or disposal pursuant to this article, a
40 national instant criminal background check must be completed by a dealer
41 who shall submit a request to the division of state police pursuant to
42 section two hundred twenty-eight of the executive law to conduct such
43 check. Before a dealer who has submitted a request to the division of
44 state police to conduct a national instant criminal background check
45 delivers a firearm, antique firearm, rifle or shotgun to any person[~~,~~
46 ~~either (a)~~] NICS shall have issued a "proceed" response[~~, or (b) thirty~~
47 ~~calendar days shall have elapsed since the date the dealer submitted a~~
48 ~~request to the division of state police to contact the NICS to initiate~~
49 ~~a national instant criminal background check and NICS has not notified~~
50 ~~the division of state police that the transfer of the firearm, rifle or~~
51 ~~shotgun to such person should be denied~~].

52 § 10. This act shall take effect immediately.