

# STATE OF NEW YORK

1210--A

2025-2026 Regular Sessions

## IN ASSEMBLY

January 9, 2025

Introduced by M. of A. PAULIN, DINOWITZ, SEAWRIGHT, ROSENTHAL, ZINERMAN -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law and the general business law, in relation to establishing a waiting period before a firearm, shotgun or rifle may be delivered to a person

The People of the State of New York, represented in Senate and Assembly, 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~~]  
15 such person to produce either a license valid under this section to  
16 carry or possess the same, or proof of lawful authority as an exempt  
17 person pursuant to section 265.20 of this chapter and [~~either~~] (a) [~~the~~  
18 ~~National Instant Criminal Background Check System (NICS) or its succes-~~  
19 ~~or has issued a "proceed" response to the licensee, or (b) thirty~~  
20 ~~three~~ calendar days have elapsed since the date the licensee contacted  
21 [~~NICS~~] the New York State National Instant Background Check System ("NYS

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

LBD03394-02-6

1 NICS") or its successor to initiate a national instant criminal back-  
2 ground check and (b) NYS NICS has [~~not-notified~~] issued a "proceed"  
3 response to the licensee [~~that~~]; provided, however, that for a person  
4 with a valid license to carry or possess a pistol, revolver, or semiau-  
5 tomatic rifle pursuant to this section, the licensed gunsmith or dealer  
6 in firearms may deliver such pistol, revolver, or semiautomatic rifle,  
7 other than an assault weapon or disguised gun, to such licensee imme-  
8 diately upon receipt of a "proceed" response from NYS NICS or its  
9 successor. If, after thirty calendar days, NYS NICS has not issued a  
10 response to the licensee for the person requesting transfer of the  
11 firearm, the licensee may transfer the firearm to such person [~~should-be~~  
12 ~~denied~~] at the licensee's discretion. In addition, before delivering a  
13 firearm to a peace officer, the licensee shall verify that person's  
14 status as a peace officer with the division of state police. After  
15 completing the foregoing, the licensee shall remove and retain the  
16 attached coupon and enter in the record book the date of such license,  
17 number, if any, and name of the licensing officer, in the case of the  
18 holder of a license to carry or possess, or the shield or other number,  
19 if any, assignment and department, unit or agency, in the case of an  
20 exempt person. The original transaction report shall be forwarded to the  
21 division of state police within ten days of delivering a firearm to any  
22 person, and a duplicate copy shall be kept by the licensee. The super-  
23 intendent of state police may designate that such record shall be  
24 completed and transmitted in electronic form. A dealer may be granted a  
25 waiver from transmitting such records in electronic form if the super-  
26 intendent determines that such dealer is incapable of such transmission  
27 due to technological limitations that are not reasonably within the  
28 control of the dealer, or other exceptional circumstances demonstrated  
29 by the dealer, pursuant to a process established in regulation, and at  
30 the discretion of the superintendent. Records assembled or collected  
31 for purposes of inclusion in the database created pursuant to section  
32 400.02 of this article shall not be subject to disclosure pursuant to  
33 article six of the public officers law. The record book shall be main-  
34 tained on the premises mentioned and described in the license and shall  
35 be open at all reasonable hours for inspection by any peace officer,  
36 acting pursuant to [~~his~~] such peace officer's special duties, or police  
37 officer. In the event of cancellation or revocation of the license for  
38 gunsmith or dealer in firearms, or discontinuance of business by a  
39 licensee, such record book shall be immediately surrendered to the  
40 licensing officer in the city of New York, and in the counties of Nassau  
41 and Suffolk, and elsewhere in the state to the executive department,  
42 division of state police.

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

45 § 400.20 Waiting period in connection with the sale or transfer of a  
46 rifle or shotgun.

47 When a national instant criminal background check is required pursuant  
48 to state or federal law to be conducted through the New York State  
49 National Instant [~~Criminal~~] Background Check System [~~(NICS)~~] (NYS NICS)  
50 or its successor in connection with the sale or transfer of a rifle or  
51 shotgun to any person, before delivering a rifle or shotgun to such  
52 person, [~~either~~] (a) [~~NICS has issued a "proceed" response to the seller~~  
53 ~~or transferor, or (b) thirty~~] three calendar days shall have elapsed  
54 since the date the seller or transferor contacted [~~NICS~~] NYS NICS to  
55 initiate a national instant criminal background check and (b) NYS NICS  
56 has [~~not-notified~~] issued a "proceed" response to the seller or transfe-

ror [~~that~~]. If, after thirty calendar days, NYS NICS has not issued a response to the seller or transferor for the person requesting transfer of the rifle or shotgun, the seller or transferor may transfer the rifle or shotgun to such person [~~should be denied~~] at the seller or transferor's discretion.

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

1. A national instant criminal background check shall be conducted in accordance with section two hundred twenty-eight of the executive law and no person shall sell or transfer a firearm, rifle or shotgun at a gun show, except in accordance with the provisions of 18 U.S.C. 922(t), and provided that 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 seller or transferor, or (b) thirty~~] three calendar days shall have elapsed since the date the seller or transferor contacted [~~NICS~~] the New York State National Instant Background Check System ("NYS NICS") or its successor to initiate a national instant criminal background check and (b) NYS NICS has [~~not notified~~] issued a "proceed" response to the seller or transferor [~~that~~]; provided, however, that for a person with a valid license to carry or possess a pistol, revolver, or semiautomatic rifle, pursuant to section 400.00 of the penal law, the seller or transferor may deliver such pistol, revolver, or semiautomatic rifle, other than an assault weapon or disguised gun, to such licensee immediately upon receipt of a "proceed" response from NYS NICS or its successor. If, after thirty calendar days, NYS NICS has not issued a response to the seller or transferor for the person requesting transfer of the firearm, rifle or shotgun, the seller or transferor may transfer the firearm, rifle or shotgun to such person [~~should be denied~~] at the seller or transferor's discretion.

§ 4. Subdivisions 1 and 2 of section 898 of the general business law, subdivision 1 as amended by chapter 129 of the laws of 2019 and subdivision 2 as amended by chapter 371 of the laws of 2022, are 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. 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 three calendar days shall have elapsed since the date the federal firearms licensee contacted [~~NICS~~] the New York State National Instant Background Check System ("NYS NICS") or its successor to initiate a national instant criminal background check and (b) NYS NICS has [~~not notified~~] issued a "proceed" response to the federal firearms licensee [~~that~~]; provided, however, that for a person with a valid license to carry or possess a pistol, revolver, or semiautomatic rifle, pursuant to section 400.00 of the penal law, the federal firearm licensee may deliver such pistol, revolver, or semiautomatic rifle,

1 other than an assault weapon or disguised gun, to such licensee imme-  
2 diately upon receipt of a "proceed" response from NYS NICS or its  
3 successor. If, after thirty calendar days, NYS NICS has not issued a  
4 response to the federal firearms licensee for the person requesting  
5 transfer of the firearm, rifle or shotgun, the federal firearm licensee  
6 may transfer the firearm, rifle or shotgun to such person [~~should be~~  
7 denied] at the federal firearm licensee's discretion. For purposes of  
8 this section, "immediate family" shall mean spouses, domestic partners,  
9 children and step-children.

10 2. Before any sale, exchange or disposal pursuant to this article, a  
11 national instant criminal background check must be completed by a dealer  
12 who shall submit a request to the division of state police pursuant to  
13 section two hundred twenty-eight of the executive law to conduct such  
14 check. Before a dealer who has submitted a request to the division of  
15 state police to conduct a national instant criminal background check  
16 delivers a firearm, rifle or shotgun to any person, [~~either~~] (a) [~~NICS~~  
17 ~~shall have issued a "proceed" response, or (b) thirty~~] three calendar  
18 days shall have elapsed since the date the dealer submitted a request to  
19 the division of state police to contact the [~~NICS~~] NYS NICS or its  
20 successor to initiate a national instant criminal background check and  
21 (b) NYS NICS has [~~not notified~~] issued a "proceed" response to the  
22 [~~division of state police that~~] dealer; provided, however, that for a  
23 person with a valid license to carry or possess a pistol, revolver, or  
24 semiautomatic rifle, the dealer may deliver a pistol, revolver, or semi-  
25 automatic rifle, other than an assault weapon or disguised gun, to  
26 such licensee immediately upon receipt of a "proceed" response from NYS  
27 NICS or its successor. If, after thirty calendar days, NYS NICS has not  
28 issued a response to the dealer for the person requesting transfer of  
29 the firearm, rifle or shotgun, the dealer may transfer the firearm,  
30 rifle or shotgun to such person [~~should be denied~~] at the dealer's  
31 discretion.

32 § 5. This act shall take effect on the sixtieth day after it shall  
33 have become a law.