

STATE OF NEW YORK

3233

2025-2026 Regular Sessions

IN ASSEMBLY

January 27, 2025

Introduced by M. of A. LAVINE, SEAWRIGHT, MEEKS, DINOWITZ -- read once and referred to the Committee on Codes

AN ACT to amend the general business law and the penal law, in relation to establishing a waiting period for the purchase of a firearm

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

1 Section 1. The general business law is amended by adding a new article
2 39-BBB to read as follows:

3 ARTICLE 39-BBB

4 WAITING PERIOD FOR PURCHASE OF

5 FIREARMS

6 Section 876. Definitions.

7 876-a. Waiting period.

8 876-b. Exemptions.

9 876-c. Penalty.

10 § 876. Definitions. As used in this section:

11 1. "Dealer in firearms" has the same meaning as that term is defined
12 in subdivision nine of section 265.00 of the penal law.

13 2. "Firearm" has the same meaning as that term is defined in subdivi-
14 sion three of section 265.00 of the penal law.

15 § 876-a. Waiting period. No dealer in firearms shall deliver any
16 firearm, and no person shall take possession of any firearm from a deal-
17 er in firearms unless:

18 1. ten days have elapsed from the date such dealer initiated the
19 national instant criminal background check of the purchaser as required
20 by 18 U.S.C. § 922(t), after receiving a completed federal Firearms
21 Transaction Record, Form 4473, from the purchaser; and

22 2. such dealer has received notice that the purchaser has passed all
23 background checks required by federal, state and local law.

24 § 876-b. Exemptions. Section eight hundred seventy-six-a of this arti-
25 cle shall not apply to:

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

LBD01253-01-5

1 1. any law enforcement or correctional agency, or police officer or
2 corrections officer acting within the course or scope of their employ-
3 ment;

4 2. any federal officer or employee authorized to possess or carry a
5 firearm in the course of such officer or employee's duties, and any
6 member of the armed forces of the United States or the national guard;

7 3. any manufacturer, distributor or dealer of firearms when trans-
8 ferring weapons to a manufacturer, distributor or dealer;

9 4. any gunsmith licensed pursuant to section 400.00 of the penal law,
10 receiving a firearm for service or repair;

11 5. any common carrier or other person engaged, in the course of its
12 business, in the business of storing or transporting goods; and

13 6. firearms loaned or leased solely for use as a prop in a motion
14 picture, streaming, television, video, theatrical, or other production
15 or event when the firearm is not loaded with ammunition and the loan or
16 lease is made by a licensed dealer in firearms in the state of New York.
17 Ammunition shall not include blank ammunition consisting of a charge and
18 no projectile.

19 § 876-c. Penalty. Any person who violates the provisions of this arti-
20 cle shall be guilty of a class A misdemeanor.

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

24 1. A national instant criminal background check shall be conducted and
25 no person shall sell or transfer a firearm, rifle or shotgun at a gun
26 show, except in accordance with the provisions of 18 U.S.C. 922(t),
27 provided that before delivering a firearm, rifle or shotgun to any
28 person, [~~either (a)~~] the National Instant Criminal Background Check
29 System (NICS) or its successor has issued a "proceed" response to the
30 seller or transferor, [~~or (b) thirty calendar days shall have elapsed~~
31 ~~since the date the seller or transferor contacted NICS to initiate a~~
32 ~~national instant criminal background check and NICS has not notified the~~
33 ~~seller or transferor that the transfer of the firearm, rifle or shotgun~~
34 ~~to such person should be denied] and ten days shall have elapsed from
35 the date such seller or transferor initiated the national instant crimi-
36 nal background check of the purchaser as required by 18 U.S.C. § 922(t),
37 after receiving a completed federal Firearms Transaction Record, Form
38 4473, from the purchaser; and such seller or transferor has received
39 notice that the purchaser has passed all background checks required by
40 federal, state and local law.~~

41 § 3. Subdivisions 1 and 2 of section 898 of the general business law,
42 subdivision 1 as amended by chapter 129 of the laws of 2019 and subdivi-
43 sion 2 as amended by chapter 371 of the laws of 2022, are amended to
44 read as follows:

45 1. In addition to any other requirements pursuant to state and federal
46 law, all sales, exchanges or disposals of firearms, rifles or shotguns
47 shall be conducted in accordance with this section unless such sale,
48 exchange or disposal is conducted by a licensed importer, licensed
49 manufacturer or licensed dealer, as those terms are defined in 18 USC §
50 922, when such sale, exchange or disposal is conducted pursuant to that
51 person's federal firearms license or such sale, exchange or disposal is
52 between members of an immediate family. When a sale, exchange or
53 disposal is conducted pursuant to a person's federal firearms license,
54 before delivering a firearm, rifle or shotgun to any person, [~~either~~
55 ~~(a)~~] the National Instant Criminal Background Check System (NICS) or its
56 successor has issued a "proceed" response to the federal firearms licen-

1 see, [~~or (b) thirty calendar days shall have elapsed since the date the~~
2 ~~federal firearms licensee contacted NICS to initiate a national instant~~
3 ~~criminal background check and NICS has not notified the federal firearms~~
4 ~~licensee that the transfer of the firearm, rifle or shotgun to such~~
5 ~~person should be denied]~~ and ten days shall have elapsed from the date
6 such dealer initiated the national instant criminal background check of
7 the purchaser as required by 18 U.S.C. § 922(t), after receiving a
8 completed federal Firearms Transaction Record, Form 4473, from the
9 purchaser; and such dealer has received notice that the purchaser has
10 passed all background checks required by federal, state and local law.

11 For purposes of this section, "immediate family" shall mean spouses,
12 domestic partners, children and step-children.

13 2. Before any sale, exchange or disposal pursuant to this article, a
14 national instant criminal background check must be completed by a dealer
15 who shall submit a request to the division of state police pursuant to
16 section two hundred twenty-eight of the executive law to conduct such
17 check. Before a dealer who has submitted a request to the division of
18 state police to conduct a national instant criminal background check
19 delivers a firearm, rifle or shotgun to any person, [~~either (a)] NICS~~
20 ~~shall have issued a "proceed" response, [or (b) thirty calendar days~~
21 ~~shall have elapsed since the date the dealer submitted a request to the~~
22 ~~division of state police to contact the NICS to initiate a national~~
23 ~~instant criminal background check and NICS has not notified the division~~
24 ~~of state police that the transfer of the firearm, rifle or shotgun to~~
25 ~~such person should be denied]~~ and ten days shall have elapsed from
26 the date such dealer initiated the national instant criminal background
27 check of the purchaser as required by 18 U.S.C. § 922(t), after receiv-
28 ing a completed federal Firearms Transaction Record, Form 4473, from the
29 purchaser; and such dealer has received notice that the purchaser has
30 passed all background checks required by federal, state and local law.

31 § 4. Subdivision 12 of section 400.00 of the penal law, as amended by
32 chapter 207 of the laws of 2022, is amended to read as follows:

33 12. Records required of gunsmiths and dealers in firearms. In addition
34 to the requirements set forth in article thirty-nine-BB of the general
35 business law, any person licensed as gunsmith or dealer in firearms
36 shall keep a record book approved as to form, except in the city of New
37 York, by the superintendent of state police. In the record book shall be
38 entered at the time of every transaction involving a firearm the date,
39 name, age, occupation and residence of any person from whom a firearm is
40 received or to whom a firearm is delivered, and the calibre, make,
41 model, manufacturer's name and serial number, or if none, any other
42 distinguishing number or identification mark on such firearm. Before
43 delivering a firearm to any person, the licensee shall require [~~him~~] the
44 person to produce either a license valid under this section to carry or
45 possess the same, or proof of lawful authority as an exempt person
46 pursuant to section 265.20 of this chapter and [~~either (a)] the National~~
47 ~~Instant Criminal Background Check System (NICS) or its successor has~~
48 ~~issued a "proceed" response to the licensee, [or (b) thirty calendar~~
49 ~~days have elapsed since the date the licensee contacted NICS to initiate~~
50 ~~a national instant criminal background check and NICS has not notified~~
51 ~~the licensee that the transfer of the firearm to such person should be~~
52 ~~denied]~~ and ten days shall have elapsed from the date such dealer initi-
53 ated the national instant criminal background check of the purchaser as
54 required by 18 U.S.C. § 922(t), after receiving a completed federal
55 Firearms Transaction Record, Form 4473, from the purchaser; and such
56 dealer has received notice that the purchaser has passed all background

1 checks required by federal, state and local law. In addition, before
2 delivering a firearm to a peace officer, the licensee shall verify that
3 person's status as a peace officer with the division of state police.
4 After completing the foregoing, the licensee shall remove and retain the
5 attached coupon and enter in the record book the date of such license,
6 number, if any, and name of the licensing officer, in the case of the
7 holder of a license to carry or possess, or the shield or other number,
8 if any, assignment and department, unit or agency, in the case of an
9 exempt person. The original transaction report shall be forwarded to the
10 division of state police within ten days of delivering a firearm to any
11 person, and a duplicate copy shall be kept by the licensee. The super-
12 intendent of state police may designate that such record shall be
13 completed and transmitted in electronic form. A dealer may be granted a
14 waiver from transmitting such records in electronic form if the super-
15 intendent determines that such dealer is incapable of such transmission
16 due to technological limitations that are not reasonably within the
17 control of the dealer, or other exceptional circumstances demonstrated
18 by the dealer, pursuant to a process established in regulation, and at
19 the discretion of the superintendent. Records assembled or collected
20 for purposes of inclusion in the database created pursuant to section
21 400.02 of this article shall not be subject to disclosure pursuant to
22 article six of the public officers law. The record book shall be main-
23 tained on the premises mentioned and described in the license and shall
24 be open at all reasonable hours for inspection by any peace officer,
25 acting pursuant to [~~his~~ their special duties, or police officer. In the
26 event of cancellation or revocation of the license for gunsmith or deal-
27 er in firearms, or discontinuance of business by a licensee, such record
28 book shall be immediately surrendered to the licensing officer in the
29 city of New York, and in the counties of Nassau and Suffolk, and else-
30 where in the state to the executive department, division of state
31 police.

32 § 5. Section 400.20 of the penal law, as added by chapter 129 of the
33 laws of 2019, is amended to read as follows:

34 § 400.20 Waiting period in connection with the sale or transfer of a
35 rifle or shotgun.

36 When a national instant criminal background check is required pursuant
37 to state or federal law to be conducted through the National Instant
38 Criminal Background Check System (NICS) or its successor in connection
39 with the sale or transfer of a rifle or shotgun to any person, before
40 delivering a rifle or shotgun to such person, [~~either (a)~~ NICS has
41 issued a "proceed" response to the seller or transferor, [~~or (b) thirty~~
42 ~~calendar days shall have elapsed since the date the seller or transferor~~
43 ~~contacted NICS to initiate a national instant criminal background check~~
44 ~~and NICS has not notified the seller or transferor that the transfer of~~
45 ~~the rifle or shotgun to such person should be denied]~~ and ten days
46 shall have elapsed from the date such dealer initiated the national
47 instant criminal background check of the purchaser as required by 18
48 U.S.C. § 922(t), after receiving a completed federal Firearms Trans-
49 action Record, Form 4473, from the purchaser; and such dealer has
50 received notice that the purchaser has passed all background checks
51 required by federal, state and local law.

52 § 6. This act shall take effect on the first of January next succeed-
53 ing the date on which it shall have become a law.