

STATE OF NEW YORK

9338--A

IN SENATE

March 3, 2026

Introduced by Sen. GIANARIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- 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 ~~sor 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
22 NICS") or its successor to initiate a national instant criminal back-
23 ground check and (b) NYS NICS has ~~[not-notified]~~ issued a "proceed"
24 response to the licensee ~~[that]; provided, however, that for a person~~
25 with a valid license to purchase, carry or possess a pistol, revolver,

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

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

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

41 § 400.20 Waiting period in connection with the sale or transfer of a
42 rifle or shotgun.

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

1 or shotgun to such person [~~should be denied~~] at the seller or
2 transferor's discretion.

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

6 1. A national instant criminal background check shall be conducted in
7 accordance with section two hundred twenty-eight of the executive law
8 and no person shall sell or transfer a firearm, rifle or shotgun at a
9 gun show, except in accordance with the provisions of 18 U.S.C. 922(t),
10 and provided that before delivering a firearm, rifle or shotgun to any
11 person, [~~either~~] (a) [~~the National Instant Criminal Background Check~~
12 ~~System (NICS) or its successor has issued a "proceed" response to the~~
13 ~~seller or transferor, or (b) thirty~~] three calendar days shall have
14 elapsed since the date the seller or transferor contacted [~~NICS~~] the New
15 York State National Instant Background Check System ("NYS NICS") or its
16 successor to initiate a national instant criminal background check and
17 (b) NYS NICS has [~~not notified~~] issued a "proceed" response to the sell-
18 er or transferor [~~that~~]; provided, however, that for a person with a
19 valid license to purchase, carry or possess a pistol, revolver, or semi-
20 automatic rifle, pursuant to section 400.00 of the penal law, the seller
21 or transferor may deliver such pistol, revolver, or semiautomatic rifle,
22 other than an assault weapon or disguised gun, to such licensee upon
23 receipt of a "proceed" response from NYS NICS or its successor. If,
24 after thirty calendar days, NYS NICS has not issued a response to the
25 seller or transferor for the person requesting transfer of the firearm,
26 rifle or shotgun, the seller or transferor may transfer the firearm,
27 rifle or shotgun to such person [~~should be denied~~] at the seller or
28 transferor's discretion.

29 § 4. Subdivisions 1 and 2 of section 898 of the general business law,
30 subdivision 1 as amended by chapter 129 of the laws of 2019 and subdivi-
31 sion 2 as amended by chapter 371 of the laws of 2022, are amended to
32 read as follows:

33 1. In addition to any other requirements pursuant to state and federal
34 law, all sales, exchanges or disposals of firearms, rifles or shotguns
35 shall be conducted in accordance with this section unless such sale,
36 exchange or disposal is conducted by a licensed importer, licensed
37 manufacturer or licensed dealer, as those terms are defined in 18 USC §
38 922, when such sale, exchange or disposal is conducted pursuant to that
39 person's federal firearms license or such sale, exchange or disposal is
40 between members of an immediate family. When a sale, exchange or
41 disposal is conducted pursuant to a person's federal firearms license,
42 before delivering a firearm, rifle or shotgun to any person, [~~either~~]
43 (a) [~~the National Instant Criminal Background Check System (NICS) or its~~
44 ~~successor has issued a "proceed" response to the federal firearms licen-~~
45 ~~see, or (b) thirty~~] three calendar days shall have elapsed since the
46 date the federal firearms licensee contacted [~~NICS~~] the New York State
47 National Instant Background Check System ("NYS NICS") or its successor
48 to initiate a national instant criminal background check and (b) NYS
49 NICS has [~~not notified~~] issued a "proceed" response to the federal
50 firearms licensee [~~that~~]; provided, however, that for a person with a
51 valid license to purchase, carry or possess a pistol, revolver, or semi-
52 automatic rifle, pursuant to section 400.00 of the penal law, the feder-
53 al firearm licensee may deliver such pistol, revolver, or semiautomatic
54 rifle, other than an assault weapon or disguised gun, to such licen-
55 see upon receipt of a "proceed" response from NYS NICS or its successor.
56 If, after thirty calendar days, NYS NICS has not issued a response to

1 the federal firearms licensee for the person requesting transfer of the
2 firearm, rifle or shotgun, the federal firearm licensee may transfer the
3 firearm, rifle or shotgun to such person [~~should be denied~~] at the
4 federal firearm licensee's discretion. For purposes of this section,
5 "immediate family" shall mean spouses, domestic partners, children and
6 step-children.

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

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