

PROGRAM BILL # 24

Legislative Bill Drafting Commission
12060-01-8

S. -----
Senate

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PENALA

(Establishes a waiting period before
a firearm, shotgun or rifle may be
delivered to a person)

Pen L. wait period guns

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:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal:

s15 Addabbo	s03 Croci	s27 Hoylman	s25 Montgomery	s23 Savino
s52 Akshar	s50 DeFrancisco	s60 Jacobs	s40 Murphy	s41 Serino
s31 Alcantara	s18 Dilan	s09 Kaminsky	s58 O'Mara	s29 Serrano
s46 Amedore	s17 Felder	s26 Kavanagh	s62 Ortt	s51 Seward
s11 Avella	s02 Flanagan	s63 Kennedy	s21 Parker	s16 Stavisky
s36 Bailey	s55 Funke	s34 Klein	s13 Peralta	s35 Stewart-
s30 Benjamin	s59 Gallivan	s28 Krueger	s19 Persaud	Cousins
s42 Bonacic	s12 Gianaris	s24 Lanza	s07 Phillips	s49 Tedisco
s04 Boyle	s22 Golden	s39 Larkin	s61 Ranzenhofer	s53 Valesky
s44 Breslin	s47 Griffo	s01 LaValle	s48 Ritchie	s57 Young
s08 Brooks	s20 Hamilton	s45 Little	s33 Rivera	s32
s38 Carlucci	s06 Hannon	s05 Marcellino	s56 Robach	s37
s14 Comrie	s54 Helming	s43 Marchione	s10 Sanders	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbate	a034 DenDekker	a115 Jones	a132 Palmesano	a114 Stec
a092 Abinanti	a070 Dickens	a077 Joyner	a002 Palumbo	a110 Steck
a084 Arroyo	a054 Dilan	a040 Kim	a088 Paulin	a127 Stirpe
a035 Aubry	a081 Dinowitz	a131 Koib	a009 Pellegrino	a071 Taylor
a120 Barclay	a147 DiPietro	a105 Lalor	a141 Peoples-	a001 Thiele
a030 Barnwell	a016 D'Urso	a013 Lavine	Stokes	a061 Titone
a106 Barrett	a004 Englebright	a134 Lawrence	a058 Perry	a031 Titus
a060 Barron	a133 Errigo	a050 Lentol	a023 Pheffer	a033 Vanel
a082 Benedetto	a109 Fahy	a125 Lifton	Amato	a055 Walker
a042 Bichotte	a126 Finch	a123 Lupardo	a086 Pichardo	a143 Wallace
a079 Blake	a008 Fitzpatrick	a121 Magee	a089 Pretlow	a112 Walsli
a117 Blankenbush	a124 Friend	a129 Magnarelli	a073 Quart	a146 Walter
a098 Brabenec	a095 Galef	a064 Malliotakis	a019 Ra	a041 Weinstein
a026 Braunstein	a137 Gantt	a090 Mayer	a012 Raia	a024 Weprin
a119 Brindisi	a007 Garbarino	a108 McDonald	a006 Ramos	a059 Williams
a138 Bronson	a148 Giglio	a014 McDonough	a043 Richardson	a113 Woerner
a093 Buchwald	a066 Glick	a101 Miller, B.	a078 Rivera	a056 Wright
a118 Butler	a150 Goodell	a038 Miller, M.G.	a068 Rodriguez	a096 Zebrowski
a094 Byrne	a075 Gottfried	a020 Miller, M.L.	a027 Rosenthal, D.	a005
a103 Cahill	a100 Gunther	a015 Montesano	a067 Rosenthal, L.	a010
a044 Carroll	a139 Hawley	a136 Morelle	a025 Rozic	a017
a062 Castorina	a083 Heastie	a145 Morinello	a149 Ryan	a039
a047 Colton	a028 Hevesi	a057 Mosley	a111 Santabarbara	a046
a032 Cook	a048 Hikind	a003 Murray	a140 Schumminger	a074
a085 Crespo	a018 Hooper	a065 Niou	a076 Seawright	a080
a122 Crouch	a128 Hunter	a037 Nolan	a087 Sepulveda	a102
a021 Curran	a029 Hyndman	a144 Norris	a052 Simon	a104
a063 Cusick	a097 Jaffee	a130 Oaks	a036 Simotas	a107
a045 Cymbrowitz	a011 Jean-Pierre	a069 O'Donnell	a104	a142
a053 Davila	a116 Jenne	a051 Ortiz	a099 Skoufis	
a072 De La Rosa	a135 Johns	a091 Otis	a022 Solages	

1) Single House Bill (introduced and printed separately in either or
both houses). Uni-Bill (introduced simultaneously in both houses and printed
as one bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2
signed copies of bill and 4 copies of memorandum in support (single house);
or 4 signed copies of bill and 8 copies of memorandum
in support (uni-bill).

1 Section 1. Subdivision 12 of section 400.00 of the penal law, as
2 amended by chapter 1 of the laws of 2013, is amended to read as follows:

3 12. Records required of gunsmiths and dealers in firearms. Any person
4 licensed as gunsmith or dealer in firearms shall keep a record book
5 approved as to form, except in the city of New York, by the superinten-
6 dent of state police. In the record book shall be entered at the time of
7 every transaction involving a firearm the date, name, age, occupation
8 and residence of any person from whom a firearm is received or to whom a
9 firearm is delivered, and the calibre, make, model, manufacturer's name
10 and serial number, or if none, any other distinguishing number or iden-
11 tification mark on such firearm. Before delivering a firearm to any
12 person, the licensee shall require him to produce either a license valid
13 under this section to carry or possess the same, or proof of lawful
14 authority as an exempt person pursuant to section 265.20 of this chapter
15 and either (a) the National Instant Criminal Background Check System
16 (NICS) or its successor has issued a "proceed" response to the licensee,
17 or (b) ten business days have elapsed since the date the licensee
18 contacted NICS to initiate a national instate criminal background check
19 and NICS has not notified the licensee that the transfer of the firearm
20 to such person should be denied. In addition, before delivering a
21 firearm to a peace officer, the licensee shall verify that person's
22 status as a peace officer with the division of state police. After
23 completing the foregoing, the licensee shall remove and retain the
24 attached coupon and enter in the record book the date of such license,
25 number, if any, and name of the licensing officer, in the case of the
26 holder of a license to carry or possess, or the shield or other number,
27 if any, assignment and department, unit or agency, in the case of an
28 exempt person. The original transaction report shall be forwarded to the



1 division of state police within ten days of delivering a firearm to any
2 person, and a duplicate copy shall be kept by the licensee. The super-
3 intendent of state police may designate that such record shall be
4 completed and transmitted in electronic form. A dealer may be granted a
5 waiver from transmitting such records in electronic form if the super-
6 intendent determines that such dealer is incapable of such transmission
7 due to technological limitations that are not reasonably within the
8 control of the dealer, or other exceptional circumstances demonstrated
9 by the dealer, pursuant to a process established in regulation, and at
10 the discretion of the superintendent. Records assembled or collected for
11 purposes of inclusion in the database created pursuant to section 400.02
12 of this article shall not be subject to disclosure pursuant to article
13 six of the public officers law. The record book shall be maintained on
14 the premises mentioned and described in the license and shall be open at
15 all reasonable hours for inspection by any peace officer, acting pursu-
16 ant to his special duties, or police officer. In the event of cancella-
17 tion or revocation of the license for gunsmith or dealer in firearms, or
18 discontinuance of business by a licensee, such record book shall be
19 immediately surrendered to the licensing officer in the city of New
20 York, and in the counties of Nassau and Suffolk, and elsewhere in the
21 state to the executive department, division of state police.

22 § 2. The penal law is amended by adding a new section 400.20 to read
23 as follows:

24 § 400.20 Waiting period in connection with the sale or transfer of a
25 rifle or shotgun.

26 When a national instant criminal background check is required pursuant
27 to state or federal law to be conducted through the National Instant
28 Criminal Background Check System (NICS) or its successor in connection



1 with the sale or transfer of a rifle or shotgun to any person, before
2 delivering a rifle or shotgun to such person, either (a) NICS has issued
3 a "proceed" response to the seller or transferor, or (b) ten business
4 days shall have elapsed since the date the seller or transferor
5 contacted NICS to initiate a national instant criminal background check
6 and NICS has not notified the seller or transferor that the transfer of
7 the rifle or shotgun to such person should be denied.

8 § 3. Subdivision 1 of section 897 of the general business law, as
9 added by chapter 189 of the laws of 2000, is amended to read as follows:

10 1. A national instant criminal background check shall be conducted and
11 no person shall sell or transfer a firearm, rifle or shotgun at a gun
12 show, except in accordance with the provisions of 18 U.S.C. 922(t),
13 provided that before delivering a firearm, rifle or shotgun to any
14 person, either (a) the National Instant Criminal Background Check System
15 (NICS) or its successor has issued a "proceed" response to the seller or
16 transferor, or (b) ten business days shall have elapsed since the date
17 the seller or transferor contacted NICS to initiate a national instant
18 criminal background check and NICS has not notified the seller or
19 transferor that the transfer of the firearm, rifle or shotgun to such
20 person should be denied.

21 § 4. Subdivisions 1 and 2 of section 898 of the general business law,
22 as added by chapter 1 of the laws of 2013, are amended to read as
23 follows:

24 1. In addition to any other requirements pursuant to state and feder-
25 al law, all sales, exchanges or disposals of firearms, rifles or shot-
26 guns shall be conducted in accordance with this section unless such
27 sale, exchange or disposal is conducted by a licensed importer, licensed
28 manufacturer or licensed dealer, as those terms are defined in 18 USC §



1 922, when such sale, exchange or disposal is conducted pursuant to that
2 person's federal firearms license or such sale, exchange or disposal is
3 between members of an immediate family. When a sale, exchange or
4 disposal is conducted pursuant to a person's federal firearms license,
5 before delivering a firearm, rifle or shotgun to any person, either (a)
6 the National Instant Criminal Background Check System (NICS) or its
7 successor has issued a "proceed" response to the federal firearms licen-
8 see, or (b) ten business days shall have elapsed since the date the
9 federal firearms licensee contacted NICS to initiate a national instant
10 criminal background check and NICS has not notified the federal firearms
11 licensee that the transfer of the firearm, rifle or shotgun to such
12 person should be denied. For purposes of this section, "immediate fami-
13 ly" shall mean spouses, domestic partners, children and step-children.

14 2. Before any sale, exchange or disposal pursuant to this article, a
15 national instant criminal background check must be completed by a dealer
16 who consents to conduct such check, and upon completion of such back-
17 ground check, shall complete a document, the form of which shall be
18 approved by the superintendent of state police, that identifies and
19 confirms that such check was performed. Before a dealer who consents to
20 conduct a national instant criminal background check delivers a firearm,
21 rifle or shotgun to any person, either (a) NICS issued a "proceed"
22 response to the dealer, or (b) ten business days shall have elapsed
23 since the date the dealer contacted NICS to initiate a national instant
24 criminal background check and NICS has not notified the dealer that the
25 transfer of the firearm, rifle or shotgun to such person should be
26 denied.

27 § 5. This act shall take effect on the forty-fifth day after it shall
28 have become a law.

