

S 51001 STEWART-COUSINS Same as [A 41001](#)
Rules (Heastie)

Governor Program # 1

ON FILE: 07/01/22 Penal Law

TITLE....Relates to licensing and other provisions
relating to firearms

07/01/22 REFERRED TO RULES
07/01/22 ORDERED TO THIRD READING CAL.1
07/01/22 MESSAGE OF NECESSITY - 3 DAY
MESSAGE
07/01/22 PASSED SENATE
07/01/22 DELIVERED TO ASSEMBLY
07/01/22 referred to codes
07/01/22 substituted for a41001
07/01/22 ordered to third reading rules cal.1
07/01/22 message of necessity - 3 day message
07/01/22 passed assembly
07/01/22 returned to senate
07/01/22 DELIVERED TO GOVERNOR
07/01/22 SIGNED CHAP.371

A41001 Rules (Heastie) Same as [S 51001 STEWART-COUSINS](#)

Governor Program # 1

Penal Law

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07/01/22 referred to codes
07/01/22 reported referred to rules
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07/01/22 rules report cal.1
07/01/22 substituted by s51001

S51001 STEWART-COUSINS

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[07/01/22](#) S51001 Assembly Vote Yes: 90 No : 52

[07/01/22](#) S51001 Senate Vote Aye: 43 Nay: 20

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Floor Votes:

07/01/22 S51001 Assembly Vote Yes: 90 No : 52

Yes Abbate	Yes Abinanti	Yes Anderson	No Angelino
No Ashby	Yes Aubry	No Barclay	ER Barnwell
Yes Barrett	Yes Benedetto	Yes Bichotte Hermelyn	No Blankenbush
No Brabenec	Yes Braunstein	Yes Bronson	No Brown E
No Brown K	Yes Burdick	Yes Burgos	Yes Burke
No Buttenschon	No Byrne	No Byrnes	Yes Cahill
Yes Carroll	Yes Chandler- Waterman	Yes Clark	Yes Colton
No Conrad	Yes Cook	Yes Cruz	Yes Cunningham
Yes Cusick	Yes Cymbrowitz	Yes Darling	Yes Davila

Yes	De Los Santos	No	DeStefano	Yes	Dickens	ER	Dilan
Yes	Dinowitz	No	DiPietro	No	Durso	ER	Eichenstein
Yes	Englebright	Yes	Epstein	Yes	Fahy	Yes	Fall
Yes	Fernandez	No	Fitzpatrick	Yes	Forrest	No	Friend
Yes	Frontus	Yes	Galef	ER	Gallagher	No	Gallahan
No	Gandolfo	Yes	Gibbs	No	Giglio JA	No	Giglio JM
Yes	Glick	Yes	Gonzalez-Rojas	No	Goodell	Yes	Gottfried
Yes	Griffin	No	Gunther A	No	Hawley	Yes	Hevesi
No	Hunter	Yes	Hyndman	Yes	Jackson	Yes	Jacobson
Yes	Jean-Pierre	No	Jensen	No	Jones	Yes	Joyner
Yes	Kelles	Yes	Kim	No	Lalor	Yes	Lavine
No	Lawler	No	Lemondes	Yes	Lucas	Yes	Lunsford
Yes	Lupardo	Yes	Magnarelli	Yes	Mamdani	No	Manktelow
Yes	McDonald	No	McDonough	Yes	McMahon	ER	Meeks
No	Mikulin	No	Miller B	Yes	Mitaynes	No	Montesano
No	Morinello	Yes	Niou	Yes	Nolan	No	Norris
Yes	O'Donnell	Yes	Otis	No	Palmesano	Yes	Paulin
No	Peoples-Stokes	ER	Pheffer Amato	Yes	Pretlow	Yes	Quart
No	Ra	Yes	Rajkumar	Yes	Ramos	No	Reilly
Yes	Reyes	Yes	Rivera J	Yes	Rivera JD	ER	Rosenthal D
Yes	Rosenthal L	Yes	Rozic	No	Salka	No	Santabarbara
Yes	Sayegh	No	Schmitt	Yes	Seawright	ER	Septimo
Yes	Sillitti	Yes	Simon	No	Simpson	No	Smith
No	Smullen	Yes	Solages	Yes	Steck	Yes	Stern
No	Stirpe	No	Tague	No	Tannousis	Yes	Tapia
Yes	Taylor	Yes	Thiele	Yes	Vanel	No	Walczyk
Yes	Walker	Yes	Wallace	No	Walsh	Yes	Weinstein
Yes	Weprin	Yes	Williams	No	Woerner	Yes	Zebrowski K
Yes	Zinerman	Yes	Mr. Speaker				

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Floor Votes:

07/01/22 S51001 Senate Vote Aye: 43 Nay: 20

Aye	Addabbo	Nay	Akshar	Aye	Bailey	Aye	Biaggi
Nay	Borrello	Nay	Boyle	Aye	Breslin	Aye	Brisport
Aye	Brooks	Aye	Brouk	Aye	Cleare	Aye	Comrie
Aye	Cooney	Aye	Felder	Nay	Gallivan	Aye	Gaughran
Aye	Gianaris	Aye	Gounardes	Nay	Griffo	Aye	Hackham
Nay	Helming	Aye	Hinchey	Aye	Hoylman	Aye	Jackson
Nay	Jordan	Aye	Kaminsky	Aye	Kaplan	Aye	Kavanagh
Aye	Kennedy	Aye	Krueger	Nay	Lanza	Aye	Liu
Aye	Mannion	Nay	Martucci	Nay	Mattera	Aye	May
Aye	Mayer	Aye	Myrie	Nay	Oberacker	Nay	O'Mara
Nay	Ortt	Nay	Palumbo	Aye	Parker	Aye	Persaud
Aye	Ramos	Nay	Rath	Aye	Reichlin-	Nay	Ritchie

Melnick

Aye	Rivera	Aye	Ryan	Aye	Salazar	Aye	Sanders
Aye	Savino	Aye	Sepulveda	Nay	Serino	Aye	Serrano
Aye	Skoufis	Aye	Stavisky	Nay	Stec	Aye	Stewart- Cousins
Nay	Tedisco	Aye	Thomas	Nay	Weik		

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S51001

SPONSOR: STEWART-COUSINS

TITLE OF BILL:

An act to amend the penal law, the general business law, the executive law, the civil practice law and rules and the state finance law, in relation to licensing and other provisions relating to firearms

PURPOSE:

The United States Supreme Court's decision in New York State Rifle & Pistol Association, Inc., v. Bruen, et al. struck down a 100-year law requiring applicants for conceal carry gun permits to show "proper cause". It deemed New York State's existing law unconstitutional because the law afforded too much discretion to the State and its licensing officers in determining "proper cause." As a result of this decision, the State must amend the State's laws on concealed carry permits and take other steps to address the consequences of the Supreme Court decision and the resulting increase in licenses and in the number of individuals who will likely purchase and carry weapons in New York State.

The proposed legislation changes the concealed carry permitting process and adds specific eligibility requirements, including the taking and passing of firearm training courses for permit applicants. It will enable the State to regulate and standardize training for license applicants. The legislation also identifies sensitive locations where it is prohibited to carry a concealed weapon and establishes that private property owners must expressly allow a person to possess a firearm, rifle, or shotgun on their property. Individuals who carry concealed weapons in sensitive locations or in contravention of the authority of an owner of private property will face criminal penalties. The State will have oversight over background checks for firearms, run regular checks on license holders for criminal convictions, and create a state-wide license and ammunition database. The legislation also strengthens and clarifies the law relating to the sale of body armor and the safe storage of firearms. The bill will take effect on September 1, 2022. An appeals board will be created for those applicants whose license is denied, which will take effect on April 1, 2023.

SUMMARY OF PROVISIONS:

Section 1 of this bill amends section 400.00 of the penal law: to define good moral character, provide new eligibility requirements, which include passing a firearms safety course; to create a new concealed carry license under 400.00 2(f) with additional disqualifying offenses and eligibility requirements; to create an appeals process for applicants who are denied, or licenses which are revoked; to require concealed carry 2(f) licenses to recertify and renew their license after three years; to provide that conduct that would result in a denial of a license would also operate as a ground for revocation of a license, and a material false statement would result in revocation of a license,

issued to a licensee in writing.

Section 2 amends section 837 of the executive law, giving the Division of Criminal Justice Services (DCJS) the new duty and function of collaborating with the Division of State Police to certify instructors and create course and training standards for a firearms safety course and

live-fire range training. DCJS will work with the State Police to create an appeals board.

Section 3 amends the executive law by adding a new section 235, giving the State Police the responsibility of collaborating with DCJS to promulgate the policies and procedures for firearms safety and training. It also requires the State Police to work with DCJS in creating an appeals board.

Section 4 amends the penal law by adding a new section 265.01-e, making a comprehensive list of all the sensitive places where the possession and carrying of firearms, rifles, or shotguns are prohibited. This section makes it a class E felony to possess a firearm, rifle, or shotgun in an enumerated prohibited sensitive place. It also specifies the people who are exempt from this prohibition.

Section 5 amends the penal law by adding a new section 265.01-d, making it a class E felony to possess a firearm, rifle, or shotgun on private property where a property owner has not given an indication or expressly allowed a person to possess. It also specifies the people who are exempt from this prohibition.

Section 6 amends penal law section 265.20 by allowing a person to possess a pistol or revolver while undergoing live-fire range training with a qualified instructor.

Section 7 amends penal law section 400.02 by requiring DCJS to conduct a monthly check of licensees' records for criminal conviction, criminal indictment, mental health, extreme risk protection orders, orders of protection, and other records. This section also creates a statewide license and records database for the sales of ammunition.

Section 8 amends penal law section 400.03, providing that people who sell firearms or ammunition shall keep records of their sales in way approved by State Police.

Section 9 amends penal law section 265.45, promulgating new safe storage laws for rifles, shotguns, and firearms in vehicles.

Section 10 adds a new section 400.30 to the penal law, to specify that the enactment of this bill and its application will not prevent local law to be more restrictive.

Section 11 amends penal law section 270.20, replacing the former defined term "body vest" with a new definition of the term "body armor," which includes any product that is a personal protective body covering intended to protect against gunfire, and would include hard body armor.

Section 12 amends penal law section 270.21, changing the term "body vest" to "body armor" and prohibiting the purchase of body armor by individuals not engaged or employed in an eligible profession.

Section 13 amends penal law section 270.22, changing the term "body vest" to "body armor" and prohibiting the sale of body armor to individuals not engaged or employed in an eligible profession.

Section 14 amends section 396-eee of general business law, changing the term "body vest" to "body armor," and prohibiting the sale of body armor to individuals not engaged or employed in an eligible profession.

Section 15 amends section 144-a of the executive law, changing the term "body vest" to "body armor."

Section 16 amends the executive law to add a new section 228, authorizing State police to run national instant criminal background checks and serve as a State point of contact.

Section 17 amends section 898 of the general business law to require dealers to submit a request to State police before receiving a background check.

Section 18 amends section 896 of the general business law to require firearm dealers to submit a request to State police before any firearm sale or transfer.

Section 19 amends section 400.03 of the penal law, requiring dealers and sellers to go through the State police to conduct background checks.

Section 20 adds a new section 400.06, requiring dealers to contact State police to conduct a national instant criminal background check. Failure to comply is a class A misdemeanor.

Section 21 adds a new section 99-pp to the finance law to create a "background check fund". This fund will be used to cover the costs associated with performing background checks.

Section 22 amends section 265.00 of the penal law to redefine "duly authorized instructor" as including people certified by DCJS.

Section 23 amends section 400.00 of the penal law to require licensing officials to notify licensees regarding important information concerning their responsibilities as a license holder. Licensees must receive a notification regarding the requirements for the safe storage of their firearm, rifle, or shotgun.

Section 24 amends section 265.00, to modify the definition for a rifle and shotgun.

Section 25, the severability clause, provides that if any part of this Act be adjudged by any court of competent jurisdiction to be invalid, such judgment would not invalidate the remainder of the Act.

Section 26 provides that the bill takes effect on the first day of September next succeeding the date on which it shall have become a law.

EXISTING LAW:

1. PL § 400.00 establishes the requirements for licenses to carry, possess, repair, and dispose of firearms.

2. PL § 265 establish the penalties of unlawful possession of firearms and other dangerous weapons.

3. PL § 400.02 establishes the creation of a statewide license and record database.

4. PL § 400.03 requires every "commercial transfer" of ammunition, including sales by firearms dealers and other ammunition vendors, to be preceded by a background check through a statewide license and record

database.

5. PL § 270.20 establishes the penalties for unlawful wearing of a body vest.
6. PL § 270.21 establishes the penalties for unlawful purchase of a body vest.
7. PL § 270.22 establishes the penalties for unlawful sale of a body vest.
8. Gen Bus. L § 896 establishes the regulations concerning the operation of a gun show.
9. Gen Bus. L § 898 establishes the requirements for the private sale or disposal of firearms, rifles and shotguns.
10. Gen Bus. L § 396-eee establishes the penalties for unlawful sale or delivery of body vests.
11. Executive law § 144-a establishing the criteria for eligible professions for the purchase, sale, and use of body vests.
12. Executive law § 837 establishes the functions, powers, and duties of the division.

JUSTIFICATION

Modifying NYS Conceal Carry Application Process and Criteria

The proposed legislation creates a new licensing procedure that satisfies the requirements set forth by the United States Supreme Court decision in *New York State Rifle & Pistol Association, Inc., v. Bruen, et al.* Notably, this replaces the "proper cause" requirements of New York's current conceal carry law, with a new set of requirements that protects individuals' Second Amendment rights as determined by the Supreme Court. Under this bill, applicants who successfully meet New York's conceal carry license applications requirements will receive their license. The bill furthers the State's compelling interest in preventing death and injury by firearms. It addresses who may lawfully possess a firearm, the requirements for purchasing guns and ammunition, and the restrictions that may be imposed on the possession or carrying of guns. It contains enhanced screening of conceal carry license applicants (including in-person interviews, reviews of social media and other information necessary to evaluate the application). The bill includes a robust appeals process to ensure the system is administered consistently and fairly across the State, including a new requirement for written notices to applicant licensees for all denials and revocations. It provides recurring monthly checks of licenses statewide to identify those who become prohibited from possessing firearms and expands secure storage to prevent thefts of guns from cars.

Point of Contact: State-run Background Checks for Firearms

Efficient, effective, and thorough background checks are a vital component of ensuring public safety and guaranteeing that individuals can purchase guns without unreasonable delay. Background checks undertaken by states are typically more thorough than those conducted by the Federal Bureau of Investigation ("FBI"), which lacks access to crucial state-owned and local-owned records and databases that provide a fuller, more accurate assessment of an applicant's background. This legislation makes the State responsible for the administration of background checks relating to gun purchases, establishing New York as a "Point of Contact" state. State background checks can integrate additional essential infor-

mation into the licensing process, including outstanding felony warrants, mental health records, domestic violence restraining orders, and more updated criminal and disposition records. Research and institutional data shows that the practice of conducting firearm purchaser background checks through state or local agencies, as opposed to through the FBI, is associated with reduced firearm death rates. Thirteen states use a state or local point of contact for all firearm transfers. Other states use a state or local point of contact for handgun background checks only, using the FBI for background checks on long gun transfers.

Body Armor

Under existing Penal Law section 270.20, a "body vest" is defined as a bullet-resistant soft body armor. This bill changes "body vest" to "body armor" in order to apply to a broader array of protective equipment that is bullet resistant. During the mass shooting in Buffalo, the shooter was wearing a steel-plated vest which would not have been captured under the existing body vest definition.

Ammunition Background Checks

In practice, in most states, individuals can purchase ammunition without any background check or other restriction, often over the Internet. Thirteen states restrict access to ammunition by most or all people who cannot possess firearms (although the eligibility criteria for firearm possession is stronger than for ammunition possession in 3 states). Ammunition background checks and other regulations on the sale and transfer of ammunition are important ways to keep the public safe.

LEGISLATIVE HISTORY:

This legislation is new law. It also modifies provisions of law concerning body armor, enacted by chapter 210 of the laws of 2022.

BUDGET IMPLICATIONS:

State agencies can begin to implement changes with existing resources.

EFFECTIVE DATE:

This bill shall take effect September 1, 2022, provided to allow DCJS additional time for implementation, some sections will go into effect April 1, 2023.