

**STATE OF NEW YORK
DEPARTMENT OF STATE**

DETERMINATION

In the matter of a request that “firearms investigator” be designated as an eligible profession for the purchase, sale, and use of body armor.

Date of designation: August 2, 2024

Legal framework

To purchase or take possession of body armor in New York State, an individual or entity must be engaged or employed in an eligible profession.¹ Pursuant to Executive Law section 144-a, the Department of State (Department) has created a process whereby individuals and entities may request that the profession in which they engage be added to the Department’s list of eligible professions.² The Department has received a request that “firearms investigator” be designated as an eligible profession. Prior to adding a profession to the list of eligible professions, the Department must first determine whether the duties of the profession may expose an individual engaged in such profession to serious physical injury that may be prevented or mitigated by the wearing of body armor, or whether the duties of the profession are necessary to facilitate the lawful purchase, sale, or use of body armor.

Request

After receiving the request that firearms investigator be designated as an eligible profession, notice of this eligible profession request was published on the Department’s website on January 8, 2024, whereby the public was invited to submit additional requests relating to this profession. No other requests relating to this request have been received by the Department.

In describing their profession, the requestor states, “I regularly respond to firearm arrest locations to identify firearms, participate in the execution of firearm related search warrants, perform surveillance during undercover firearm purchases, and recover and identify firearms from arrestees.” The requestor states that “there is an extremely high risk of being subjected to gunfire” in “dealing with arrestees and suspects, surveilling suspects while they illegally sell firearms to undercover detectives, and executing firearm related search warrants.” As a required duty of their position, requestor must “handl[e] various types of weapons.” Prior to enactment of Executive Law § 144-a, requestor states that individuals engaged in the profession utilized body armor, explaining that “while on surveillance, discreet vests are employed” and that “during the execution of a search warrant, rifle plates may be employed depending [on] the nature of the warrant.”

¹ New York Penal Law §270.21.

² See 19 NYCRR Part 905, generally.

The requestor is an employee of a county police department and assigned to a branch of a district attorney office dedicated to firearm suppression.³ An official position description for the position of firearms investigator provided by the requestor states that “an employee in this class is responsible for assisting law enforcement personnel in identifying firearms classifying the type of weapon, and determining whether it is legal to own.” The position description lists the following typical work activities highlighted by the requestor, among others:

- Responds to calls from law enforcement agencies regarding the identification and classification of a firearm or component, and advises whether it is legal to own;
- Will meet a Police Officer in the field, to assist with the identification of weapons found on a person; . . .

The position description additionally requires a Bachelor’s degree in Police Science and three years of “paid experience in identifying the classification of weapons and the laws applicable to possession of such weapons.” Requestor provided the following list of additional training completed in support of these duties including, among others: an ATF Industry Operations Investigations Course (Bureau of Alcohol, Tobacco, Firearms and Explosives), Basic Criminal Investigator School (Suffolk County Police Department (“SCPD”)), International Firearm Specialist Academy, Firearm Trafficking Investigations Course (New York State Police; High Intensity Drug Trafficking Areas (“HIDTA”) Program at US Drug Enforcement Administration), Ghost Gun and 3D Printed Firearms Investigation and Interdiction (HIDTA), and Advanced Criminal Investigator School (SCPD).

Findings of fact and analysis

A “profession” refers to any occupation or line of work referenced or included within a category identified in the Standard Occupational Classification Manual published by the federal Office of Management and Budget (SOC Manual), or as otherwise described in a federal, state, or local statute or regulation.⁴ The profession of firearms investigator is listed in the 2018 federal Office of Management and Budget Standard Occupational Classification Manual, included under code 33-3021 titled “Detectives and Criminal Investigators.” The SOC Manual describes the profession’s duties as:

Conduct investigations related to suspected violations of federal, state, or local laws to prevent or solve crimes. Excludes “Private Detectives and Investigators” (33-9021).

The profession of firearms investigator does not require a license from the State, nor is the profession defined in state law. Requestor states that they are required to handle firearms as well

³ While “[a]n investigator employed in the office of a district attorney” is an eligible profession under the definition of police officer (see Criminal Procedure Law § 1.20(34)(g)), the requestor is an investigator employed in a police department, but assigned to a district attorney’s office. The requestor’s assignment does not qualify the requestor’s profession as eligible under this definition.

⁴ 19 NYCRR 905.1(f).

as participate in surveillance and the execution of search warrants. The requestor additionally states that, prior to enactment of Executive Law § 144-a, individuals engaged in the profession utilized body armor during these activities.

In order to carry out their duties as a firearms investigator, an individual is required to handle firearms and work alongside law enforcement while participating in surveillance activities and the execution of search warrants, which may expose that individual to live fire or accidental discharge situations. As such, the duties of the profession of firearms investigator sometimes require individuals to put themselves in dangerous situations, which may expose an individual engaged in the profession to serious physical injury that may be prevented or mitigated by the wearing of body armor.

Determination

The information set forth above supports a determination by the Department that the duties of the profession of firearms investigator sometimes require individuals engaged or employed in that profession to put themselves in dangerous situations that may expose them to serious physical injury, and that such serious physical injury may be prevented or mitigated by the wearing of body armor. For the purposes of this determination, a firearms investigator shall mean a firearms investigator who is employed by a local, state, or federal law enforcement agency.

Based on the foregoing facts and the requirements of Executive Law §144-a and 19 NYCRR Part 905, the Department has designated the profession of firearms investigator as an eligible profession for the purchase, sale, and use of body armor and adds such profession to the Department's list of eligible professions.