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2d & 4th Cir., U.S. Supreme Court*

September 12, 2023

Mr. Robert Meek
Clerk of the Court
Supreme Court of the United States
1 First Street, NE
Washington, DC 20543

Re: Nadine Gazzola, et al. v. Gov. Kathleen Hochul, et al.
Case No. 23A230

To Clerk Mr. Robert Meek:

I yesterday filed an Emergency Application in the above-referenced case. Will you please transmit this supplemental submission to Justice Sotomayor, and, if it has advanced to the full court, to all Justices?

Just one hour ago, the defendant NYS Police published a "User Guide" for dealers who will be required to use the new NYSP firearms and ammunition background check system as of tomorrow, in the absence of a stay by this Court. The NYSP website has been crashing on-and-off all day since at least 6:00 a.m. (screenshot attached)

I draw your attention to pages 11-12 of the "User Guide" (attached) which contains evidence of systems operation we have been trying to ascertain all year. It specifies that a dealer in firearms and/or ammunition will be required for the background check to input the firearm make, model, and serial number + for the ammunition background check to input the manufacturer, caliber, and number of rounds. On page 9, it will require input of the citizen's Social Security Number.

In our Emergency Application, on page 20, I referenced the new state law designed to create a single database as a gun owners' registry, as well as state attorney filings that confirm this fact. Today, the NYSP "User Guide" illustrates the mechanics of how the data capture will be enforced at the point of sale.

Here are the basic references from the Brief and Appendix, filed January 31, 2023 to the Second Circuit, and awaiting ruling since March 20, 2023, which underly our Emergency Application to this Court:

- Brief for Appellants: arguments *replete* with statutory and evidentiary citations on page 49-60;
- A-239 through A-240 – Declaration FFL-01 Craig Serafini (plaintiff);
- A-256 through A-259 – Declaration FFL-01 Michael Mastrogiovanni (plaintiff);
- A-274 through A-279 – Declaration FFL-01 Christopher Martello (plaintiff);
- A-300 through A-303 – Declaration FFL-02 Nicholas Affronti (plaintiff); and,
- A-316 through A-319 – Declaration FFL-1 Robert Owens (plaintiff).

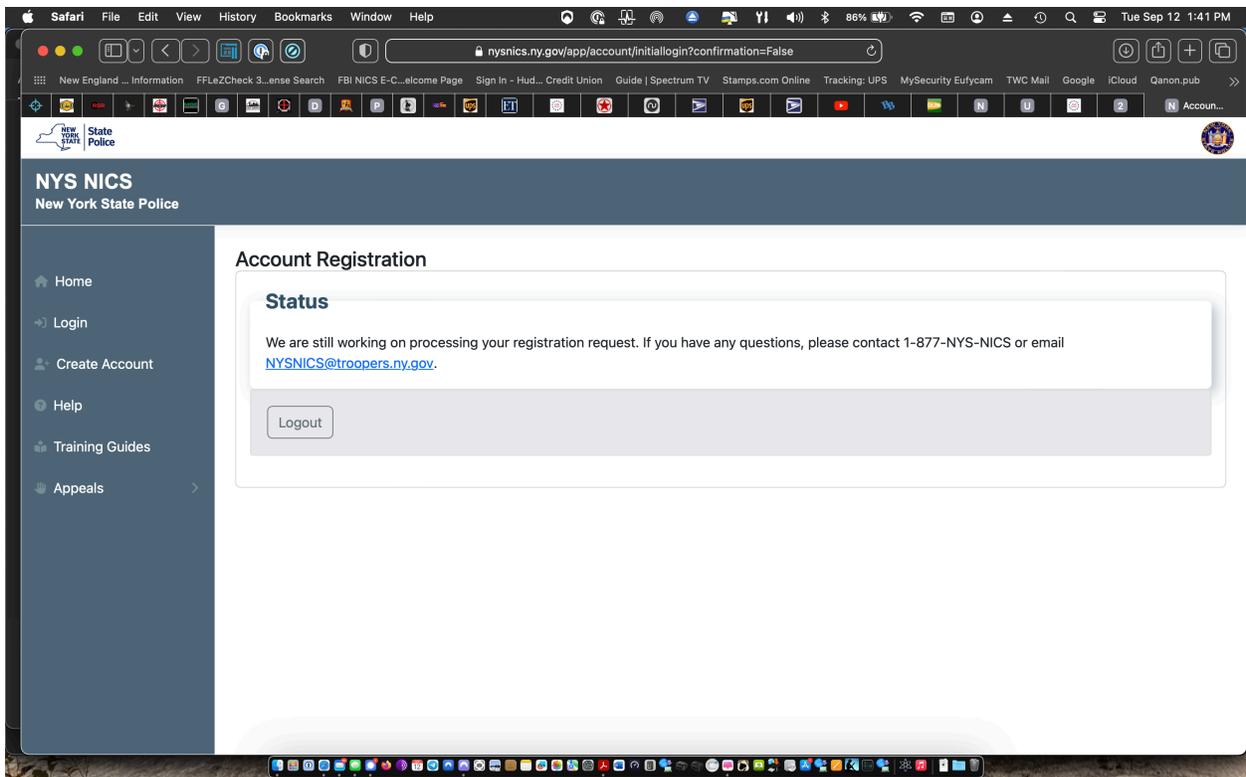
In the interests of time, I transmit this. On behalf of myself, plaintiffs, and our named witnesses, please do not hesitate to ask any question about our submission. Thank you for your consideration of our application.

Respectfully submitted,

Paloma A. Capanna

Paloma A. Capanna

c.: Beezly Kiernan, Esq., NYS Office of the Attorney General (courtesy copy also via e-mail)



- Home
- Login
- Create Account
- Help
- Training Guides
- Appeals

Account Registration

Status

We are still working on processing your registration request. If you have any questions, please contact 1-877-NYS-NICS or email NYSNICS@troopers.ny.gov.

Logout

Division of New York State Police

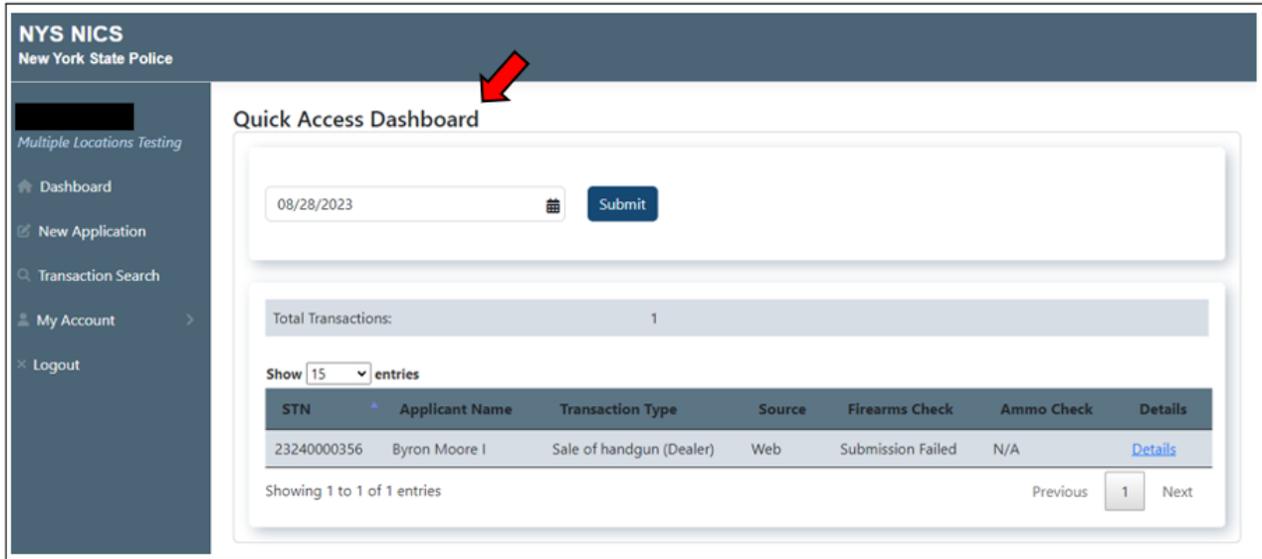


NYS NICS New Application Process for Dealers User Guide

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I. Quick Access Dashboard



Pursuant to Executive Law § 228, New York has been designated a Point of Contact state for the purpose of processing National Instant Background Check (“NICS”) transactions. This means that starting on September 13, 2023, all background check requests for firearm, rifle, shotgun, and ammunition purchases will be submitted to the New York State Police, and dealers will no longer submit requests directly to FBI NICS.

Upon initial log in, you will be directed to your business account “Quick Access Dashboard”. Within the dashboard you will have the ability to view all applications that have been submitted on behalf of your business account by current date, up to a week back. Selecting the ‘Calendar’ icon allows you to view daily applications as far back as a week.

“Transaction Search” from the left-hand navigation gives you the ability to view all applications that have been processed by the business. You can locate an application based on the “Submission Date Range”, “State Transaction Number (STN)” or the “Applicant Information”.

Once an application has been submitted, you can monitor the application’s status on the dashboard or through the transactional search function. Statuses are updated as background checks are processed, be sure to check back periodically to see the updated status.

Common statuses you will see are:

- **Proceed** – These are automatic approvals. You may proceed with the sale.
- **Delayed** – An application will be delayed if a possible match is returned on the background check. NYS has 30 days, by law, to review an application before making a determination.
- **Expired** – Applications in a delayed status for more than a 30-day timeframe will be set to expired. A background check transaction is only valid for 30 days and will need to be resubmitted if this timeframe has elapsed.

- **For Firearms –**
Expired applications will require a new application to be submitted if the applicant wishes to proceed with the sale. After 3 days of the second application being submitted and not receiving a response, it is up to the dealer’s discretion to proceed with the sale or wait for NYS NICS unit to review the application.
- **For Ammunition –**
Expired applications will require a new application be submitted until the status is set to proceed. A dealer cannot move forward with the sale of ammunition until they receive a “Proceed” response.
- **Denied –** The applicant is prohibited from purchasing a firearm and/or ammunition. The applicant may choose to Appeal the transaction if they believe they are being wrongly denied.
- **Pending –** The application is being sent out to complete the background check for a response. Applications that remain in a ‘Pending’ status will be automatically retried for up to 30 days. If you have an application which shows as ‘Pending’ for over 24 hours, please contact the NYS NICS unit at 1-877-NYS-NICS. Applications will show as ‘Pending’ during maintenance windows and outages as well.
- **Submission Failed –** The ‘Submission Failed’ response occurs when there is invalid data in a field during submission. Please contact the NYS NICS Unit at 1-877-NYS-NICS if you receive this error message before attempting to resubmit.

II. New Application

1. New Application

- a. From the left-hand navigation select ‘New Application’

NYS NICS
New York State Police

Multiple Locations Testing

- Dashboard
- New Application**
- Transaction Search
- My Account
- Logout

Quick Access Dashboard

08/28/2023

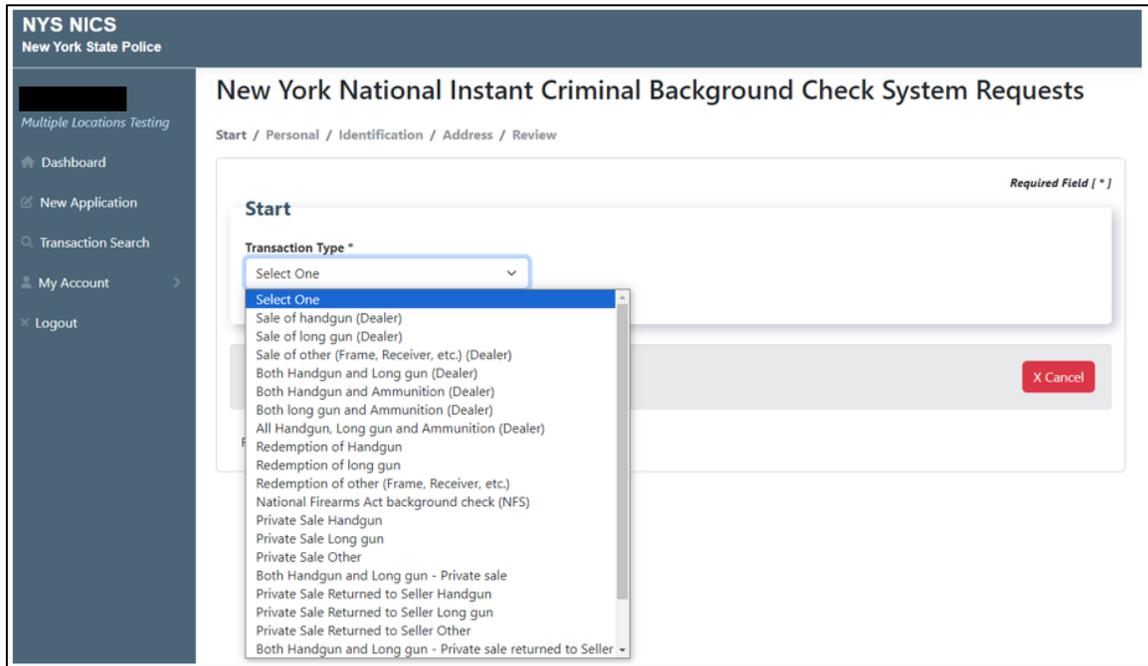
Total Transactions: 1

Show 15 entries

STN	Applicant Name	Transaction Type	Source	Firearms Check	Ammo Check	Details
2324000356	Byron Moore I	Sale of handgun (Dealer)	Web	Submission Failed	N/A	Details

Showing 1 to 1 of 1 entries Previous 1 Next

- b. From the drop-down, select the 'Transaction Type' you wish to process (For the purpose of this guide, All Handgun, Long gun and Ammunition transaction types will be shown)



- c. When complete, select the 'Continue' button

2. Personal Information

- a. The following fields are required and must be answered:
 - First Name
 - Middle Name/No Middle Name check box
 - Last Name
 - Gender
 - Height
 - Weight
 - Race
 - Ethnicity
 - Date of Birth
 - Prior Military Status

Personal Information

First Name *

Middle Name

No Middle Name

Last Name *

Suffix
Select One

Gender *
Select One

Height *
feet
inches

Weight *

Race *
Select One

Ethnicity *
Select One

Date of Birth *

Select one that applies *

Honorably discharged from the military

Still an active member of the military

Never joined military

Dishonorably discharged from the military

- b. Within the “Additional Name/Aliases” section, complete the following fields:
- Have you been known by any name or names other than the above?
 - If Yes:
 - First Name (Required)
 - Last Name (Required)

Additional Name/Aliases

Have you been known by any name or names other than the above? *

Yes

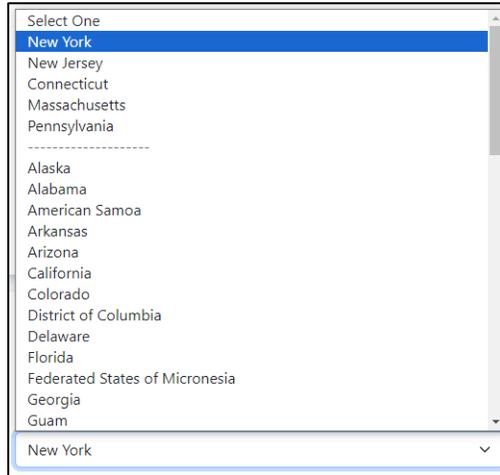
No

First Name *	Middle Name	Last Name *
Mortimer		Mouse

+ Add Alias

* You may add up to 5 additional names/aliases

- c. Within the “Place of Birth” section, complete the following fields:
 - Country
 - State
 - Displays dynamically based on selection of “United States of America”
 - Drop down displays the most frequent states on top – NY, NJ, CT, MA, PA



- City
 - This is a free text field
- d. After every field has been answered from the “Personal Information” page, select the ‘Continue’ button



3. Identification Information

- a. The following fields are required and must be answered:
 - Occupation
 - This is a free form text field with a 100-character limit

- Do you have a valid Driver's License?
 - If Yes, you will be asked for:
 - Driver's License State
 - Displays dynamically based on the selection of 'Yes' to the question above
 - Driver's License Number
 - Displays dynamically based on the selection of 'Yes' to the question above

Do you have a valid Driver's License? *

Yes

No

Driver's License State *

Select One ▾

Driver's License Number *

- If No, you will be asked for:
 - Type of valid government ID being used
 - Displays dynamically based on the selection of 'No' to the question above
 - Valid Government ID Number
 - Displays dynamically based on the selection of 'No' to the question above

Do you have a valid Driver's License? *

Yes

No

Type of valid government ID being used

Select One ▾

Valid Government ID Number *

- U.S. Citizen
 - Country of Citizenship
 - Government ID
 - Is the purchaser an alien who has been admitted to the United States under a nonimmigrant visa?
 - These additional 3 questions dynamically display based on the selection of 'No' to U.S. Citizen question

U.S. Citizen *

Yes

No

Country of Citizenship *

Select One 

Government ID *

Alien Registration Number

Non-Immigrant Admissions Number

Is the purchaser an alien who has been admitted to the United States under a nonimmigrant visa? *

Yes

No

- Social Security Number (SSN/SOC)
- Unique Personal Identification Number (UPIN)
 - If applicable

SSN/SOC

*** 

Upn

4. Residential Address

- a. Within the “Residential Address” section, the following fields are required and must be answered:

The screenshot shows a form titled "Residential Address" with a "Required Field [*]" indicator in the top right corner. The form contains the following fields:

- Street Address ***: Text input field containing "123 Commercial Street".
- City ***: Text input field containing "Trenton".
- State ***: Dropdown menu with "New York" selected.
- Zip Code ***: Text input field containing "08821".
- County/Parish/Borough ***: Dropdown menu with "Cortland" selected.
- Reside in City Limits? ***: Radio button group with "Yes" selected, and "No" and "Unknown" options.

- Street Address
- City
- State
- Zip Code
- County/Parish/Borough
- Reside in City Limits

- b. Within the “Contact Information” section, the following fields are required and must be answered:

- Email
- Confirm Email
- Primary Phone

The screenshot shows a form titled "Contact Information" with the following fields:

- Email ***: Text input field containing "test123@gmail.com".
- Confirm Email ***: Text input field containing "test123@gmail.com".
- Primary Phone ***: Text input field containing "(213) 123-1234".

c. When complete, select the 'Continue' button

5. Firearms Information (This section will only appear for firearm transactions)

- a. The following fields are required and must be answered:
- Number of Firearms – Multiple Firearms can be submitted on a single application
 - Manufacturer Name
 - Firearm Type
 - Hand gun
 - Long gun
 - Frame only
 - Model
 - Serial Number – Required for Firearm Type of Hand gun
 - Caliber – optional for Firearm Type of Frame only

Required Field [*]

Firearms Information

Number of Firearms *
1

Number of Firearms Information listed below: 1

Manufacturer Name *	Firearm Type *	Model *	Serial Number	Caliber *
Smith & Wesson (S&W)	Hand gun			

+ Add Firearms Information

Continue Back X Cancel

b. When complete select the 'Continue' button

6. Ammunition Information (This section will only appear for ammunition transactions)

- a. The following fields are required and must be answered:
- Number of Ammunition – Multiple Ammunition transactions can be submitted on a single application
 - Manufacturer Name
 - Caliber
 - Amount of Ammunition being purchased (number of rounds)
 - Ammunition Identification Number
 - Serial Number

- Other Distinguishing Number

*Required Field [*]*

Ammunition Information

Number of Ammunition *

Number of Ammunition Information listed below: 1

Manufacturer Name *	Caliber *	Amount of Ammunition being purchased (Number of rounds) *	Ammunition Identification Number *
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="radio"/> Serial Number <input type="radio"/> Other Distinguishing Number

+ Add Ammunition Information

Continue Back X Cancel

- b. When complete, select the 'Continue' button

7. Review

- a. You will now be directed to the "Review" page. From here you will be able to edit any information previously entered on the previous pages:
 - Start – Transaction Type
 - Personal Information
 - Identification Information
 - Residential Address
 - Firearm Information
 - Ammunition Information
- b. Once you have reviewed all the information and are ready to proceed, select the 'Submit' button

8. Payment

- a. You will now be directed to the "Payment" page within the application
- b. Select how you wish to pay from the Payment Type drop-down
 - Credit/Debit Card

- Electronic Check

The screenshot shows a web form titled "Payment" with a progress bar at the top containing four steps: 1. Payment Type, 2. Customer Info, 3. Payment, and 4. Submit Payment. The "Payment Type" section is active, featuring a dropdown menu labeled "Payment Type *" with the following options: "Select One", "Credit/Debit Card", and "Electronic Check". A green "Next >" button is positioned to the right of the dropdown. Below the dropdown are sections for "Customer Information" and "Payment Information", and a "Cancel" button at the bottom left.

- c. Select the 'Next' button when complete

9. Dependent on selecting Credit/Debit Card from the drop-down, you will be prompted to the **Credit/Debit Card page**

- a. The following fields are required and must be answered:
 - First Name
 - Last Name
 - Address
 - City
 - State
 - Zip/Postal Code
 - Phone Number
 - Email

Credit/Debit Card

Customer Information Complete all required fields [*]

Country *

First Name * Last Name *

Company Name

Address *

Address 2

City * State *

ZIP/Postal Code *

Phone Number *

Email *

- b. When complete, select the 'Next' button
- c. Enter in your Payment Information. The following fields are required and must be answered:
 - Credit Card Number
 - Expiration Month
 - Expiration Year
 - Security Code
 - Name on Credit Card

The screenshot shows a web form with two main sections: 'Customer Information' and 'Payment Information'. The 'Customer Information' section includes fields for Address (Dealer Testing, 123 Main St, Albany, NY 12203), Phone Number (5185555555), Country (United States), and Email Address (redacted). An 'Edit' button is located in the top right of this section. The 'Payment Information' section includes fields for Credit Card Number (with a help icon), Credit Card Type (with logos for Mastercard, Visa, Discover, and American Express), Expiration Month (dropdown menu), Expiration Year (dropdown menu), Security Code (with a help icon), and Name on Credit Card. A checkbox labeled 'Payment Address is the same as Customer Information' is checked. A 'Next >' button is located in the bottom right of the form.

- d. When complete, select the 'Next' button
- e. You will be brought to a payment review page. From here you may edit your payment information as needed. Once all information is accurate, select the 'Submit Payment' button

The screenshot shows a 'Payment' review page. It features a 'Payment Type' section set to 'Credit/Debit Card'. Below this is a 'Customer Information' section with the same details as the previous screenshot, including an 'Edit' button. The 'Payment Information' section shows the credit card details: 'Credit Card' (Visa ****1111, Exp. 02/2026) and 'Name on Credit Card' (Dealer Testing), with an 'Edit' button. At the bottom, there are 'Cancel' and 'Submit Payment' buttons.

- f. Once the payment has successfully been submitted, you will receive the "Confirmation" Information page

Confirmation

Congratulations! You have successfully submitted a New York National Instant Criminal Background Check System (NICS) request.

Transaction Information

Please note the information below for your records and future use. You will be able to access this application using Transaction Search.

State Transaction Number (STN):	23241000370
Applicant Name:	Byron Byron Moore Moore I
Submission Date:	8/29/2023 2:57:57 PM
Transaction Type:	All Handgun, Long gun and Ammunition (Dealer)
Amount Paid:	\$ 11.50
Number of Firearms:	2
Number of Ammunition:	1

[Dashboard](#) [Refresh](#)

Please refresh the page to see any status updates. You can also check the status from the Dashboard.

Firearms Check Status:	Pending
Ammo Check Status:	Pending

10. If selecting Electronic Check from the drop-down, you will receive the **Electronic Check page**

- a. Check the box **only** if the payment is being funded by a foreign bank/company
- b. When complete, select the 'Next' button

The screenshot shows a web form titled "Payment" with a progress indicator at the top. The progress bar has four steps: 1. Payment Type (highlighted), 2. Customer Info, 3. Payment, and 4. Submit Payment. The main content area is divided into sections: "Payment Type", "Customer Information", and "Payment Information". In the "Payment Type" section, there is a dropdown menu labeled "Payment Type *" with "Electronic Check" selected and a green checkmark to its right. Below the dropdown is a checkbox with the text "Select if this payment IS being funded specifically by a FOREIGN source (bank or company), an International ACH Transaction (\"IAT\")." A green "Next >" button is positioned to the right of the checkbox. At the bottom left of the form, there is a "Cancel" button.

- c. Next you will be prompted to enter the Customer Information. The following fields are required and must be answered:
 - First Name
 - Last Name
 - Address
 - City
 - State
 - Zip/Postal Code
 - Phone Number
 - Email

Customer Information

Complete all required fields [*]

Country *

First Name * Last Name *

Company Name

Address *

Address 2

City * State *

ZIP/Postal Code *

Phone Number *

Email *

Next >

- d. When complete, select the 'Next' button
- e. You will now be prompted to enter the Payment Information. The following fields are required and must be answered:
 - Name on Account
 - Is this a business account – Check box (if applicable)
 - Routing Number
 - Account Number
 - Re-enter Account Number
 - Checking/Savings – radio button
 - Payment Address is the same as Customer Information – Check box

The screenshot shows a web form with two main sections: 'Customer Information' and 'Payment Information'. The 'Customer Information' section includes fields for Address (Dealer Testing, 123 Main St, Albany, NY 12203), Phone Number (5185555555), Country (United States), and Email Address (redacted). An 'Edit' button is in the top right. The 'Payment Information' section includes a 'Name on Account' field (Dealer Testing), a checked checkbox 'This is a business account.', 'Routing Number' (221373383), 'Account Number' (01234567890), and 'Re-enter Account Number' (01234567890). There are radio buttons for 'Checking' (selected) and 'Savings'. A checkbox 'Payment Address is the same as Customer Information' is checked. A 'Next' button is at the bottom right. A small inset image shows a check stub with red boxes around the routing and account numbers, with arrows pointing to the form fields.

- f. Once information has been entered, select the 'Next' button
- g. You will be presented with the payment review page, you may edit any information as necessary by using the "Edit" box in each section.
- h. Once you have read the "Terms and Conditions", select the "Yes, I authorize this transaction" check box.

Payment Type ✓

Electronic Check

Customer Information ✓

[Edit](#)

Address Dealer Testing 123 Main St Albany, NY 12203	Phone Number 5185555555
Country United States	Email Address <input type="text"/>

Payment Information ✓

[Edit](#)

Electronic Check ****7890	Name on Account Dealer Testing
-------------------------------------	--

Terms and Conditions [Open a new window to print](#)

bank account specified above to be used for payment.

2. Such bank account is open, validly issued, in good standing and able to accept electronic debits.

3. Tyler Technologies or its agent is authorized to electronically debit the bank account shown above, and if necessary, to credit such account to correct any erroneous debits using an Automated Clearing House ("ACH") debit entry.

4. This ACH debit authorization will remain in full force and effect for this single debit entry only.

Yes, I authorize this transaction.

[Cancel](#) [Submit Payment](#)

- i. Once complete, select the 'Submit Payment' button

- j. Once the payment has successfully been submitted, you will receive the “Confirmation” Information page.

Confirmation

Congratulations! You have successfully submitted a New York National Instant Criminal Background Check System (NICS) request.

Transaction Information

Please note the information below for your records and future use. You will be able to access this application using Transaction Search.

State Transaction Number (STN):	23243000385
Applicant Name:	Byron Byron Moore Moore I
Submission Date:	8/31/2023 9:18:25 AM
Transaction Type:	Sale of handgun (Dealer)
Amount Paid:	\$ 9.00
Number of Firearms:	1

[Dashboard](#) [Refresh](#)

Please refresh the page to see any status updates. You can also check the status from the Dashboard.

Firearms Check Status:	Pending
Ammo Check Status:	N/A