S T A T E O F N E W Y O R K

678

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sen. PERALTA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the sale or transfer of a rifle or a shotgun between unlicensed persons and providing penalties

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new section 396-eee to read as follows:

S 396-EEE. SALE OR TRANSFER OF CERTAIN WEAPONS BETWEEN UNLICENSED PERSONS. 1. THE SALE OR OTHER TRANSFER OF RIFLES OR SHOTGUNS, AS SUCH TERMS ARE DEFINED IN SECTION 265.00 OF THE PENAL LAW, BETWEEN TWO OR MORE UNLICENSED PERSONS SHALL BE CONDUCTED THROUGH A FEDERALLY LICENSED FIREARMS DEALER AND SHALL COMPLY WITH APPLICABLE FEDERAL AND STATE LAWS. A PERSON SHALL COMPLETE ANY SALE, LOAN, OR TRANSFER OF A RIFLE OR SHOTGUN THROUGH A PERSON LICENSED PURSUANT TO SECTION 400.00 OF THE PENAL LAW IN ACCORDANCE WITH THIS SECTION. THE SELLER OR TRANSFEROR OR THE PERSON LOANING THE RIFLE OR SHOTGUN SHALL DELIVER THE RIFLE OR SHOTGUN TO THE DEALER WHO SHALL RETAIN POSSESSION OF THAT RIFLE OR SHOTGUN. THE DEALER SHALL THEN DELIVER THE RIFLE OR SHOTGUN TO THE PURCHASER OR TRANSFEREE OR THE PERSON BEING LOANED THE RIFLE OR SHOTGUN, IF IT IS NOT PROHIBITED BY ANY PROVISION OF LAW. IF THE DEALER CANNOT LEGALLY DELIVER THE RIFLE OR SHOTGUN TO THE PURCHASER OR TRANSFEREE OR THE PERSON BEING LOANED THE RIFLE OR SHOTGUN, THE DEALER SHALL FORTHWITH, WITHOUT WAITING FOR THE CONCLUSION OF ANY APPLICABLE WAITING PERIOD, RETURN THE RIFLE OR SHOTGUN TO THE TRANSFEROR OR SELLER OR THE PERSON LOANING THE RIFLE OR SHOTGUN. THE DEALER SHALL NOT RETURN THE RIFLE OR SHOTGUN TO THE SELLER OR TRANSFEROR OR THE PERSON LOANING THE RIFLE OR SHOTGUN WHEN TO DO SO WOULD CONSTITUTE A VIOLATION OF THE PENAL LAW. IF THE DEALER CANNOT LEGALLY RETURN THE RIFLE OR SHOTGUN TO THE TRANSFEROR OR SELLER OR THE

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

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PERSON LOANING THE RIFLE OR SHOTGUN, THEN THE DEALER SHALL FORTHWITH DELIVER THE RIFLE OR SHOTGUN TO THE SHERIFF OF THE COUNTY OR THE CHIEF OF POLICE OR OTHER HEAD OF A MUNICIPAL POLICE DEPARTMENT OF ANY CITY OR CITY AND COUNTY WHO SHALL THEN DISPOSE OF THE FIREARM IN THE MANNER PROVIDED BY SUCH MUNICIPALITY. THE FEDERALLY LICENSED FIREARMS DEALER MAY CHARGE A TRANSFER FEE NOT TO EXCEED TEN DOLLARS. THIS SECTION DOES NOT APPLY TO THE SALE OR OTHER TRANSFER OF RIFLES OR SHOTGUNS IN ANY OF THE FOLLOWING SITUATIONS:

A. THE PERSON TRANSFERRING THE RIFLE OR SHOTGUN OR THE PERSON ACQUIRING THE RIFLE OR SHOTGUN IS A LICENSED FIREARMS DEALER PURSUANT TO FEDERAL LAW.

B. THE RIFLE OR SHOTGUN ACQUIRED IS AN ANTIQUE RIFLE OR SHOTGUN, A COLLECTOR'S ITEM, A DEVICE WHICH IS NOT DESIGNED OR REDESIGNED FOR USE AS A RIFLE OR SHOTGUN, A DEVICE WHICH IS DESIGNED SOLELY FOR USE AS A SIGNALING, PYROTECHNIC, LINE-THROWING, SAFETY OR SIMILAR DEVICE, OR A RIFLE OR SHOTGUN WHICH IS UNSERVICEABLE BY REASON OF BEING UNABLE TO DISCHARGE A SHOT BY MEANS OF AN EXPLOSIVE AND IS INCAPABLE OF BEING READILY RESTORED TO A FIRING CONDITION.

C. THE PERSON ACQUIRING THE RIFLE OR SHOTGUN IS AUTHORIZED TO DO SO ON BEHALF OF A LAW ENFORCEMENT AGENCY.

2. AN UNLICENSED PERSON WHO SELLS OR TRANSFERS A SHOTGUN OR RIFLE TO ANOTHER UNLICENSED PERSON, OR AN UNLICENSED PERSON WHO ACQUIRES A RIFLE OR SHOTGUN FROM ANOTHER UNLICENSED PERSON, WITHOUT THE SALE OR TRANSFER CONDUCTED BY A FEDERALLY LICENSED FIREARMS DEALER, SHALL BE GUILTY OF A CLASS A MISDEMEANOR PURSUANT TO SECTION 265.17 OF THE PENAL LAW.

3. A PERSON WHO SELLS OR TRANSFERS A RIFLE OR SHOTGUN TO ANOTHER PERSON, WHO THE TRANSFEROR KNOWS OR HAS REASON TO KNOW IS PROHIBITED FROM POSSESSING FIREARMS, RIFLES OR SHOTGUNS UNDER FEDERAL OR STATE LAW, SHALL BE GUILTY OF A CLASS A MISDEMEANOR PURSUANT TO SECTION 265.17 OF THE PENAL LAW.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law and shall apply to firearms sold or transferred on or after such date.