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

3200

2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. BENJAMIN -- read once and referred to the Committee on Codes

AN ACT to amend the general business law and the penal law, in relation to establishing a statewide database to maintain and track coded ammunition and establishing penalties for individuals who violate such provisions; to amend the state finance law, in relation to establishing the ammunition coding system database fund; and to amend the tax law, in relation to establishing a tax credit for manufacturers or dealers who exchange old uncoded ammunition for new coded ammunition

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

Section 1. Legislative findings. The legislature hereby finds that each year in the United States more than thirty percent of all homicides involving a gun go unsolved. Handgun ammunition accounts for approximately eighty percent of all ammunition sold within the United States. Current technology for matching a bullet used in a crime to the gun that fired it has worked moderately well for years, but presupposes that the weapon was recovered by law enforcement. Ammunition coding is a new and effective way for law enforcement to quickly identify persons of interest in gun crime investigations.

S 2. The general business law is amended by adding a new section 396-gg to read as follows:

S 396-GG. AMMUNITION CODING SYSTEM DATABASE. 1. THE NEW YORK STATE POLICE IS RESPONSIBLE FOR ESTABLISHING AND MAINTAINING AN AMMUNITION CODING SYSTEM DATABASE CONTAINING INFORMATION FROM THE FOLLOWING:

A. THE MANUFACTURER REGISTRY. (I) EVERY MANUFACTURER SHALL REGISTER WITH THE NEW YORK STATE POLICE IN A MANNER PRESCRIBED BY THE NEW YORK STATE POLICE, AND SHALL MAINTAIN RECORDS ON THE BUSINESS PREMISES FOR A PERIOD OF SEVEN YEARS CONCERNING ALL SALES, LOANS, AND TRANSFERS OF AMMUNITION TO, FROM, OR WITHIN THE STATE.

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

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(II) EVERY MANUFACTURER SHALL CODE ANY AMMUNITION FOR HANDGUNS AND ASSAULT WEAPONS SOLD OR MANUFACTURED AFTER JANUARY FIRST, TWO THOUSAND NINE.

B. THE VENDOR REGISTRY. EVERY VENDOR OF AMMUNITION SHALL REGISTER WITH THE NEW YORK STATE POLICE IN A MANNER PRESCRIBED BY THE NEW YORK STATE POLICE, AND SHALL RECORD THE FOLLOWING INFORMATION IN A FORMAT PRESCRIBED BY THE NEW YORK STATE POLICE:

(I) THE DATE OF THE TRANSACTION;

(II) THE NAME OF THE TRANSFEREE;

(III) THE PURCHASER'S DRIVER'S LICENSE NUMBER OR OTHER GOVERNMENT ISSUED IDENTIFICATION CARD NUMBER;

(IV) THE DATE OF BIRTH OF THE PURCHASER;

(V) THE UNIQUE IDENTIFIER OF ALL HANDGUN AMMUNITION OR BULLETS TRANSFERRED;

(VI) THE CALIBER OF THE BULLET; AND

(VII) ANY OTHER INFORMATION DETERMINED NECESSARY BY THE NEW YORK STATE POLICE.

EVERY VENDOR SHALL MAINTAIN THESE RECORDS ON THEIR PREMISES FOR A PERIOD OF AT LEAST THREE YEARS FROM THE DATE OF THE RECORDED PURCHASE.

2. TO THE GREATEST EXTENT POSSIBLE OR PRACTICAL, THE AMMUNITION CODING SYSTEM DATABASE SHALL BE BUILT WITHIN THE FRAMEWORK OF EXISTING FIREARMS DATABASES. THE AMMUNITION CODING SYSTEM DATABASE SHALL BE OPERATIONAL NO LATER THAN JANUARY FIRST, TWO THOUSAND TEN.

3. PRIVACY OF INDIVIDUALS IS OF THE UTMOST IMPORTANCE. ACCESS TO INFORMATION IN THE AMMUNITION CODING SYSTEM DATABASE IS RESERVED FOR KEY LAW ENFORCEMENT PERSONNEL AND TO BE RELEASED ONLY IN CONNECTION WITH A CRIMINAL INVESTIGATION.

4. THE COST OF MAINTAINING THE DATABASE SHALL BE FUNDED BY THE AMMUNITION CODING SYSTEM DATABASE FUND ESTABLISHED PURSUANT TO SECTION NINETY-ONE-H OF THE STATE FINANCE LAW. VENDORS SHALL CHARGE AN ADDITIONAL $.005 PER BULLET OR ROUND OF AMMUNITION TO THE PURCHASER. SUCH MONEYS SHALL BE DEPOSITED INTO THE FUND.

5. ANY PERSON IN POSSESSION OF NON-CODED AMMUNITION MUST DISPOSE OF SUCH AMMUNITION NO LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN.

6. ANY PERSON WITH A VALID HUNTING LICENSE SHALL BE EXEMPT FROM THIS SECTION, FOR A PERIOD OF THREE YEARS COMMENCING THREE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION.

7. A. ANY MANUFACTURER THAT WILLFULLY FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A FINE OF UP TO ONE THOUSAND DOLLARS FOR A FIRST OFFENSE; A FINE OF UP TO FIVE THOUSAND DOLLARS FOR A SECOND OFFENSE; AND A FINE OF UP TO TEN THOUSAND DOLLARS FOR A THIRD AND EACH SUBSEQUENT OFFENSE.

B. ANY VENDOR THAT WILLFULLY FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO A FINE OF UP TO ONE THOUSAND DOLLARS FOR A FIRST OFFENSE; A FINE OF UP TO TWO THOUSAND DOLLARS FOR A SECOND OFFENSE; AND A FINE OF UP TO FIVE THOUSAND DOLLARS FOR A THIRD AND EACH SUBSEQUENT OFFENSE. IN ADDITION TO ANY FINE IMPOSED PURSUANT TO THIS SECTION, A VENDOR MAY BE SUBJECT TO A TERM OF IMPRISONMENT OF LESS THAN ONE YEAR FOR EACH VIOLATION.

8. FOR PURPOSES OF THIS SECTION, "CODED AMMUNITION" MEANS A BULLET CARRYING A UNIQUE IDENTIFIER THAT HAS BEEN APPLIED BY ETCHING ONTO THE BASE OF THE BULLET PROJECTILE.

S 3. The penal law is amended by adding a new section 265.45 to read as follows:

S 265.45 UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNITION.

A PERSON IS GUILTY OF UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNITION WHEN HE OR SHE:

1. SELLS ANY AMMUNITION THAT HAS NOT BEEN CODED PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-GG OF THE GENERAL BUSINESS LAW; OR

2. POSSESSES ANY AMMUNITION THAT IS UNCODED, OR THE CODE OF WHICH HAS BEEN RENDERED UNREADABLE, EXCEPT IF SUCH POSSESSION IS WITHIN THREE YEARS FROM THE EFFECTIVE DATE OF THIS SECTION AND THE PERSON HAS A VALID HUNTING LICENSE; OR

3. POSSESSES ONE HUNDRED ROUNDS OR MORE OF AMMUNITION THAT IS UNCODED, OR THE CODE OF WHICH HAS BEEN RENDERED UNREADABLE, DOES NOT HAVE A VALID HUNTING LICENSE, AND SUCH POSSESSION TAKES PLACE AT LEAST ONE YEAR AFTER THE EFFECTIVE DATE OF THIS SECTION.

UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNITION IS A CLASS A MISDEMEANOR.

S 4. The state finance law is amended by adding a new section 91-h to read as follows:

S 91-H. AMMUNITION CODING SYSTEM DATABASE FUND. 1. THERE IS HEREBY CREATED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE, A FUND TO BE KNOWN AS THE AMMUNITION CODING SYSTEM DATABASE FUND.

2. THE FUND SHALL CONSIST OF ALL MONEYS COLLECTED PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-GG OF THE GENERAL BUSINESS LAW, OR ANY OTHER MONEY APPROPRIATED TO THE FUND BY LAW.

3. THE MONEYS OF THE FUND SHALL BE USED TO ESTABLISH AND MAINTAIN THE AMMUNITION CODING SYSTEM DATABASE CREATED PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-GG OF THE GENERAL BUSINESS LAW.

4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE SUPERINTENDENT OF THE NEW YORK STATE POLICE.

S 5. Section 210 of the tax law is amended by adding a new subdivision 41 to read as follows:

41. CREDIT FOR EXCHANGE OF UNCODED AMMUNITION. (A) ALLOWANCE OF CREDIT. A TAXPAYER SHALL BE ALLOWED A CREDIT, TO BE COMPUTED AS HEREINAFTER PROVIDED, AGAINST THE TAX IMPOSED BY THIS ARTICLE, WHERE THE TAXPAYER IS AN AMMUNITION MANUFACTURER OR DEALER AND ACCEPTS OLD UNCODED AMMUNITION IN EXCHANGE FOR NEW CODED AMMUNITION.

(B) AMOUNT OF CREDIT. THE CREDIT ALLOWED IN THIS SUBDIVISION SHALL BE EQUAL TO THE COST TO THE TAXPAYER FOR PROVIDING NEW CODED AMMUNITION IN EXCHANGE FOR OLD UNCODED AMMUNITION, IN AN AMOUNT UP TO THREE HUNDRED THOUSAND DOLLARS.

S 6. This act shall take effect on the ninetieth day after it shall have become a law.