

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:

1 Section 1. Legislative findings. The legislature hereby finds that  
2 each year in the United States more than thirty percent of all homicides  
3 involving a gun go unsolved. Handgun ammunition accounts for approxi-  
4 mately eighty percent of all ammunition sold within the United States.  
5 Current technology for matching a bullet used in a crime to the gun that  
6 fired it has worked moderately well for years, but presupposes that the  
7 weapon was recovered by law enforcement. Ammunition coding is a new and  
8 effective way for law enforcement to quickly identify persons of inter-  
9 est in gun crime investigations.  
10 S 2. The general business law is amended by adding a new section 396-  
11 gg to read as follows:  
12 S 396-GG. AMMUNITION CODING SYSTEM DATABASE. 1. THE NEW YORK STATE  
13 POLICE IS RESPONSIBLE FOR ESTABLISHING AND MAINTAINING AN AMMUNITION  
14 CODING SYSTEM DATABASE CONTAINING INFORMATION FROM THE FOLLOWING:  
15 A. THE MANUFACTURER REGISTRY. (I) EVERY MANUFACTURER SHALL REGISTER  
16 WITH THE NEW YORK STATE POLICE IN A MANNER PRESCRIBED BY THE NEW YORK  
17 STATE POLICE, AND SHALL MAINTAIN RECORDS ON THE BUSINESS PREMISES FOR A  
18 PERIOD OF SEVEN YEARS CONCERNING ALL SALES, LOANS, AND TRANSFERS OF  
19 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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1 (II) EVERY MANUFACTURER SHALL CODE ANY AMMUNITION FOR HANDGUNS AND  
2 ASSAULT WEAPONS SOLD OR MANUFACTURED AFTER JANUARY FIRST, TWO THOUSAND  
3 NINE.

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

- 8 (I) THE DATE OF THE TRANSACTION;  
9 (II) THE NAME OF THE TRANSFEREE;  
10 (III) THE PURCHASER'S DRIVER'S LICENSE NUMBER OR OTHER GOVERNMENT  
11 ISSUED IDENTIFICATION CARD NUMBER;  
12 (IV) THE DATE OF BIRTH OF THE PURCHASER;  
13 (V) THE UNIQUE IDENTIFIER OF ALL HANDGUN AMMUNITION OR BULLETS TRANS-  
14 FERRED;  
15 (VI) THE CALIBER OF THE BULLET; AND  
16 (VII) ANY OTHER INFORMATION DETERMINED NECESSARY BY THE NEW YORK STATE  
17 POLICE.

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

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

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

28 4. THE COST OF MAINTAINING THE DATABASE SHALL BE FUNDED BY THE AMMUNI-  
29 TION CODING SYSTEM DATABASE FUND ESTABLISHED PURSUANT TO SECTION NINE-  
30 TY-ONE-H OF THE STATE FINANCE LAW. VENDORS SHALL CHARGE AN ADDITIONAL  
31 \$.005 PER BULLET OR ROUND OF AMMUNITION TO THE PURCHASER. SUCH MONEYS  
32 SHALL BE DEPOSITED INTO THE FUND.

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

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

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

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

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

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

55 S 265.45 UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNITION.

1 A PERSON IS GUILTY OF UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNI-  
2 TION WHEN HE OR SHE:

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

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

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

13 UNLAWFUL SALE OR POSSESSION OF UNCODED AMMUNITION IS A CLASS A MISDE-  
14 MEANOR.

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

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

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

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

27 4. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF  
28 THE STATE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE SUPER-  
29 INTENDENT OF THE NEW YORK STATE POLICE.

30 S 5. Section 210 of the tax law is amended by adding a new subdivi-  
31 sion 41 to read as follows:

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

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

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