

S. 1188

A. 3477

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

January 27, 2009

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

IN ASSEMBLY -- Introduced by M. of A. CAMARA, GOTTFRIED, JAFFEE, MAISEL, ROBINSON, BENJAMIN, COLTON, CLARK, ESPAILLAT, PEOPLES, COOK -- Multi-Sponsored by -- M. of A. DIAZ, V. LOPEZ, MAYERSOHN, J. RIVERA, SALADINO, TITONE, TOWNS, WALKER, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the general business law, in relation to a firearm ballistic identification databank

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

1 Section 1. Section 396-ff of the general business law, as added by
2 chapter 189 of the laws of 2000, is amended to read as follows:
3 S 396-ff. [Pistol and revolver] FIREARM ballistic identification data-
4 bank. (1) For the purposes of this section, the following terms shall
5 have the following meanings:
6 (a) "Manufacturer" means any person, firm or corporation possessing a
7 valid federal license that permits such person, firm or corporation to
8 engage in the business of manufacturing [pistols or revolvers] FIREARMS
9 or ammunition therefor for the purpose of sale or distribution.
10 (b) "Shell casing" means that part of ammunition capable of being used
11 in a [pistol or revolver] FIREARM that contains the primer and propel-
12 lant powder to discharge the bullet or projectile.
13 (c) "FIREARM" MEANS A PISTOL, REVOLVER, OR ASSAULT WEAPON AS DEFINED
14 IN SECTION 265.00 OF THE PENAL LAW, RIFLE, OR OTHER LONG-BARRELED WEAP-
15 ON.
16 (2) [On and after March first, two thousand one, any] ANY manufacturer
17 that ships, transports or delivers a [pistol or revolver] FIREARM to any
18 person in this state shall, in accordance with rules and regulations

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

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1 promulgated by the division of state police, include in the container
2 with such [pistol or revolver] FIREARM a separate sealed container that
3 encloses:

4 (a) a shell casing of a bullet or projectile discharged from such
5 [pistol or revolver] FIREARM; and

6 (b) any additional information that identifies such [pistol or revol-
7 ver] FIREARM and shell casing as required by such rules and regulations.

8 (3) A gunsmith or dealer in firearms licensed in this state shall,
9 within ten days of the receipt of any [pistol or revolver] FIREARM from
10 a manufacturer that fails to comply with the provisions of this section,
11 either (a) return such [pistol or revolver] FIREARM to such manufactur-
12 er, or (b) notify the division of state police of such noncompliance and
13 thereafter obtain a substitute sealed container through participation in
14 a program operated by the state police as provided in subdivision four
15 of this section.

16 (4) The division of state police shall no later than October first,
17 two thousand, promulgate rules and regulations for the operation of a
18 program which provides a gunsmith or a dealer in firearms licensed in
19 this state with a sealed container enclosing the items specified in
20 subdivision two of this section. The program shall at a minimum:

21 (a) be operational by January first, two thousand one;

22 (b) operate in at least five regional locations within the state; and

23 (c) specify procedures by which such gunsmith or dealer is to deliver
24 a [pistol or revolver] FIREARM to the regional program location closest
25 to his or her place of business for testing and prompt return of such
26 [pistol or revolver] FIREARM.

27 (5) [On and after March first, two thousand one, a] A gunsmith or
28 dealer in firearms licensed in this state shall, within ten days of
29 delivering to any person a [pistol or revolver] FIREARM received by such
30 gunsmith or dealer in firearms [on or after such date], forward to the
31 division of state police, along with the original transaction report
32 required by subdivision twelve of section 400.00 of the penal law, the
33 sealed container enclosing the shell casing from such [pistol or revol-
34 ver] FIREARM either (a) received from the manufacturer, or (b) obtained
35 through participation in the program operated by the division of state
36 police in accordance with subdivision four of this section.

37 (6) Upon receipt of the sealed container, the division of state police
38 shall cause to be entered in an automated electronic databank pertinent
39 data and other ballistic information relevant to identification of the
40 shell casing and to the [pistol or revolver] FIREARM from which it was
41 discharged. The automated electronic databank will be operated and
42 maintained by the division of state police, in accordance with its rules
43 and regulations adopted after consultation with the Federal Bureau of
44 Investigation and the United States Department of Treasury, Bureau of
45 Alcohol, Tobacco and Firearms to ensure compatibility with national
46 ballistic technology.

47 (7) Any person, firm or corporation who knowingly violates any of the
48 provisions of this section shall be guilty of a violation, punishable as
49 provided in the penal law. Any person, firm or corporation who knowingly
50 violates any of the provisions of this section after having been previ-
51 ously convicted of a violation of this section shall be guilty of a
52 class A misdemeanor, punishable as provided in the penal law.

53 S 2. This act shall take effect on the sixtieth day after it shall
54 have become a law.