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

3668

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. SCHIMEL, ENGLEBRIGHT, EDDINGTON, PAULIN, BENEDETTO, DINOWITZ, LANCMAN, HOYT, CLARK, BOYLAND, JAFFEE, KELLNER, CARROZZA, BROOK-KRASNY, ROSENTHAL, O'DONNELL, ALESSI, ESPAILLAT, LAVINE, KAVANAGH, LIFTON, ALFANO -- Multi-Sponsored by -- M. of A. BING, COLTON, COOK, DIAZ, GLICK, GOTTFRIED, HOOPER, JACOBS, JEFFRIES, MAISEL, McENENY, McKEVITT, PEOPLES, PHEFFER, ROBINSON, SALADINO, SCARBOROUGH, WEISENBERG -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to requiring semiautomatic pistols manufactured or delivered to any licensed dealer in this state to be capable of microstamping ammunition

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

Section 1. Section 265.00 of the penal law is amended by adding a new subdivision 21-a to read as follows:

21-A. "SEMIAUTOMATIC PISTOL" MEANS ANY PISTOL THAT IS CAPABLE OF UTILIZING A PORTION OF THE ENERGY OF A FIRING CARTRIDGE TO EXTRACT THE FIRED CARTRIDGE CASE AND CHAMBER THE NEXT ROUND, AND REQUIRING A SEPARATE PULL OF THE TRIGGER TO FIRE EACH CARTRIDGE.

S 2. Subdivision 6 of section 265.10 of the penal law, as amended by chapter 189 of the laws of 2000, is amended to read as follows:

6. Any person who wilfully defaces any machine-gun, large capacity ammunition feeding device or firearm is guilty of a class D felony. PROVIDED, HOWEVER, NO ACTION TAKEN IN AN EFFORT TO COMPLY WITH SECTION 265.38 OF THIS ARTICLE SHALL CONSTITUTE A VIOLATION OF THIS SUBDIVISION.

S 3. Subdivision 5 of section 265.15 of the penal law, as amended by chapter 695 of the laws of 1987, is amended to read as follows:

5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is presumptive evidence that such person defaced the same. PROVIDED, HOWEVER, NO ACTION TAKEN IN AN EFFORT TO COMPLY WITH

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

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SECTION 265.38 OF THIS ARTICLE SHALL CONSTITUTE A VIOLATION OF THIS SUBDIVISION.

S 4. The penal law is amended by adding a new section 265.38 to read as follows:

S 265.38 MICROSTAMPING CAPABILITY OF SEMIAUTOMATIC PISTOLS REQUIRED.

1. ALL SEMIAUTOMATIC PISTOLS MANUFACTURED IN THIS STATE SHALL BE CAPABLE OF MICROSTAMPING AMMUNITION.

2. ALL SEMIAUTOMATIC PISTOLS DELIVERED TO ANY DEALER IN FIREARMS IN THIS STATE SHALL BE CAPABLE OF MICROSTAMPING AMMUNITION.

3. ALL SEMIAUTOMATIC PISTOLS RECEIVED BY ANY DEALER IN FIREARMS IN THIS STATE SHALL BE CAPABLE OF MICROSTAMPING AMMUNITION.

4. FOR PURPOSES OF SUBDIVISION ONE OF THIS SECTION, A SEMIAUTOMATIC PISTOL IS CAPABLE OF MICROSTAMPING AMMUNITION IF:

(A) A MICROSCOPIC ARRAY OF CHARACTERS THAT IDENTIFY THE MAKE, MODEL AND SERIAL NUMBER OF THE SEMIAUTOMATIC PISTOL IS ETCHED INTO THE FIRING PIN AND THE BREECH FACE OF THE SEMIAUTOMATIC PISTOL; AND

(B) WHEN AMMUNITION IS FIRED FROM THE SEMIAUTOMATIC PISTOL, THE CHARACTERS ARE COPIED FROM THE FIRING PIN AND THE BREECH FACE ONTO THE CARTRIDGE CASE OF THE AMMUNITION.

5. SUBDIVISION ONE OF THIS SECTION SHALL APPLY ONLY TO SEMIAUTOMATIC PISTOLS WHICH:

(A) ARE MANUFACTURED OR IMPORTED INTO THE STATE ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN; AND

(B) HAVE NOT BEEN TRANSFERRED TO A PERSON NOT LICENSED AS A DEALER PURSUANT TO THIS CHAPTER.

6. ANY PERSON WHO VIOLATES SUBDIVISION ONE OF THIS SECTION SHALL BE FINED AN AMOUNT EQUAL TO:

(A) ONE THOUSAND DOLLARS MULTIPLIED BY THE NUMBER OF SEMIAUTOMATIC PISTOLS INVOLVED IN THE VIOLATION FOR A FIRST OFFENSE;

(B) TWO THOUSAND DOLLARS MULTIPLIED BY THE NUMBER OF SEMIAUTOMATIC PISTOLS INVOLVED IN THE VIOLATION FOR A SECOND OFFENSE; AND

(C) THREE THOUSAND DOLLARS MULTIPLIED BY THE NUMBER OF SEMIAUTOMATIC PISTOLS INVOLVED IN THE VIOLATION FOR A THIRD OFFENSE OR ANY SUBSEQUENT OFFENSE.

S 5. This act shall take effect January 1, 2011.