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

1715--A

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sens. SCHNEIDERMAN, ADAMS, DIAZ, DUANE, FOLEY, KRUEGER, PARKER, PERKINS, SAMPSON, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law and the penal law, in relation to preventing the sale of firearms, rifles, and shotguns to criminals

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

Section 1. Legislative findings and declaration. The legislature hereby finds and declares as follows:

1. Firearms, rifles and shotguns are used to kill nearly 30,000 individuals in the United States every year, including 1,000 individuals in New York state alone. Additionally, there are 100,000 non-fatal injuries across the country. The federal government has largely ignored this public health crisis and has left it up to state and local governments to protect its citizens. Firearm violence also costs millions of dollars and causes incalculable emotional damage, devastating families and communities throughout the country. Therefore, the state of New York has a strong interest in reducing violence and crimes that involve the use of firearms and the illegal trafficking of firearms. Illegal guns obtained throughout the state end up in the hands of criminals, youth and violent individuals who use them to threaten, maim and kill.

2. There is a thriving underground market for illegal firearms, largely driven by demand from drug gangs and other criminals. A highly efficient and continuous business practice exists in which firearms are moved from legal manufacture and sale to prohibited purchasers, making them illegal firearms. In 2001, approximately 12,000 illegal firearms, rifles and shotguns were seized in New York state. From November 2000 to April 2002, 2700 crime guns were entered into the state crime gun

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

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database. In 2008, according to a review by the federal bureau of alcohol, tobacco, firearms, and explosives (ATF) of trace data compiled for several regions in the state, including Albany, Buffalo, Rochester, Syracuse, Long Island and New York City that calendar year, 9,558 firearms were submitted to be traced, 2,659 of which were long guns. Outside New York City, long guns are sold without a permit. Forty-six percent of the firearms recovered in 2008 were found outside New York City. A significant portion of guns involved in crimes upstate originate within the state. In fact, youth data reveals that in 2000, 40% of the crime guns in Buffalo originated within a five-mile radius of that city.

3. A substantial portion of illegal firearms are diverted to the illegal market through licensed gun dealers. Rogue gun dealers play a key role in this market. These rogue dealers funnel guns to the illegal market through a variety of channels. One of the most common means is to allow "straw purchases". A straw purchase occurs when a person purchases a gun on behalf of a prohibited person. The ATF conducted an investigation of gun trafficking from July 1996 to December 1998 and found that almost 26,000 trafficked firearms were associated with investigations in which there was a straw purchaser. Almost 50% of all trafficking investigations involved straw purchasers, with an average of 37 firearms trafficked per investigation. Another issue, according to a 2008 report by Mayors Against Illegal Guns, Inside Straw Purchasing: How Criminals Get Guns Illegally, is that many traffickers return to the same store again and again once they have identified it as one in which they can make straw purchases easily. Although most gun dealers operate their businesses legally and responsibly, some gun dealers who are corrupt or maintain shoddy recordkeeping practices flood the streets with illegal weapons as a result of their unrestricted access to new gun inventory and the unwillingness of gun manufacturers to terminate their supply to these rogue dealers. Current federal and state regulation has not curbed the business practice of illegal gun dealers. According to a 2004 study by Americans for Gun Safety, of the 120 worst gun dealers in the country, namely those dealers with an average of 500 crime guns traced to them, 96 were still in operation.

4. Moreover, this problem is not limited to unlicensed sellers, and clearly includes federal firearms licensees (FFLs). Indeed, although FFLs were involved in under 10% of the trafficking investigations undertaken by ATF, they were associated with the largest number of diverted firearms--over 40,000 guns, which is nearly half of the total number of trafficked firearms documented during the two-year period of ATF's investigation. Additionally, a 2008 report by Mayors Against Illegal Guns indicated that several states which allow state authorities to supplement the federal ATF inspections with routine inspections provide law enforcement with more opportunities to uncover dealers in violation of the law. These inspections also help identify dealers who exercise lax oversight over their inventory and may lead to improved compliance with federal, state and local laws.

5. Current New York state laws governing firearm dealers are inadequate to prevent the diversion of firearms to the illegal marketplace. Additional protections that are needed include, but are not limited to, better gun dealer internal compliance procedures, programs to eliminate straw purchases, increased liability insurance, improved security measures, reducing youth access, mandatory training for gun dealer employees, and improved recordkeeping requirements. The additional protections

set forth in this act will greatly enhance the state's efforts to reduce criminal activity in the state.

S 2. Article 40 and sections 900 and 901 of the general business law, as renumbered by chapter 407 of the laws of 1973, are renumbered article 50 and sections 1001 and 1002 and a new article 40 is added to read as follows:

ARTICLE 40

PREVENTING THE SALE OF FIREARMS, RIFLES, AND SHOTGUNS TO CRIMINALS

SECTION 900. DEFINITIONS.
901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMINALS.
902. SECURITY.
903. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS.
904. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES.
905. EMPLOYEE TRAINING.
906. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS.
907. MAINTENANCE OF RECORDS.
908. COOPERATION WITH LAW ENFORCEMENT.
909. INTERNAL COMPLIANCE AND CERTIFICATION.
910. RULES AND REGULATIONS.
911. VIOLATIONS.

S 900. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "DEALER" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, OR COMPANY WHO ENGAGES IN THE BUSINESS OF PURCHASING, SELLING, KEEPING FOR SALE, LENDING, LEASING, OR IN ANY MANNER DISPOSING OF, ANY FIREARM, RIFLE, OR SHOTGUN.

2. "DISPOSE OF" MEANS TO DISPOSE OF, GIVE, GIVE AWAY, LEASE, LEND, KEEP FOR SALE, OFFER, OFFER FOR SALE, SELL, TRANSFER, OR OTHERWISE DISPOSE OF.

3. "FIREARM" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION THREE OF SECTION 265.00 OF THE PENAL LAW.

4. "FIREARM EXHIBITOR" MEANS ANY PERSON, FIRM, PARTNERSHIP, CORPORATION, OR COMPANY THAT EXHIBITS, SELLS, OFFERS FOR SALE, TRANSFERS, OR EXCHANGES FIREARMS, RIFLES, OR SHOTGUNS AT A GUN SHOW.

5. "GUN SHOW" MEANS AN EVENT SPONSORED, WHETHER FOR PROFIT OR NOT, BY AN INDIVIDUAL, NATIONAL, STATE, OR LOCAL ORGANIZATION, ASSOCIATION, OR OTHER ENTITY DEVOTED TO THE COLLECTION, COMPETITIVE USE, SPORTING USE, OR ANY OTHER LEGAL USE OF FIREARMS, RIFLES, OR SHOTGUNS, OR AN EVENT AT WHICH: (A) TWENTY PERCENT OR MORE OF THE TOTAL NUMBER OF EXHIBITORS ARE FIREARM EXHIBITORS; (B) TEN OR MORE FIREARM EXHIBITORS ARE PARTICIPATING; (C) A TOTAL OF TWENTY-FIVE OR MORE PISTOLS OR REVOLVERS ARE OFFERED FOR SALE OR TRANSFER; OR (D) A TOTAL OF FIFTY OR MORE FIREARMS, RIFLES, OR SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER. THE TERM "GUN SHOW" SHALL INCLUDE ANY BUILDING, STRUCTURE, OR FACILITY WHERE FIREARMS, RIFLES, OR SHOTGUNS ARE OFFERED FOR SALE OR TRANSFER AND ANY GROUNDS USED IN CONNECTION WITH THE EVENT.

6. "RETAIL DEALER" MEANS ANY DEALER ENGAGED IN THE RETAIL BUSINESS OF SELLING FIREARMS, RIFLES, OR SHOTGUNS.

7. "RIFLE" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION ELEVEN OF SECTION 265.00 OF THE PENAL LAW.

8. "SHOTGUN" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVISION TWELVE OF SECTION 265.00 OF THE PENAL LAW.

9. "STRAW PURCHASE" MEANS THE PURCHASE, OR ATTEMPT TO PURCHASE, BY A PERSON OF A FIREARM, RIFLE, OR SHOTGUN FOR, ON BEHALF OF, OR FOR THE USE OF ANOTHER PERSON, KNOWING THAT IT WOULD BE UNLAWFUL FOR SUCH OTHER

PERSON TO POSSESS SUCH FIREARM, RIFLE, OR SHOTGUN, OR AN ATTEMPT TO MAKE SUCH A PURCHASE.

10. "STRAW PURCHASER" MEANS A PERSON WHO, KNOWING THAT IT WOULD BE UNLAWFUL FOR ANOTHER PERSON TO POSSESS A FIREARM, RIFLE, OR SHOTGUN, PURCHASES OR ATTEMPTS TO PURCHASE A FIREARM, RIFLE, OR SHOTGUN FOR, ON BEHALF OF, OR FOR THE USE OF SUCH OTHER PERSON.

11. "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF STATE POLICE.

S 901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMINALS. EVERY DEALER SHALL ADOPT REASONABLE MEASURES TO PREVENT FIREARMS, RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF COMMERCE, INTENTIONALLY OR OTHERWISE, FOR LATER SALE, TRANSFER, OR DISPOSAL TO INDIVIDUALS NOT LEGALLY ENTITLED TO PURCHASE OR POSSESS SUCH WEAPONS. SUCH MEASURES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, PROGRAMS TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART ILLEGAL GUN TRAFFICKING. THE SUPERINTENDENT SHALL DEVELOP PROGRAMS DESIGNED TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART ILLEGAL GUN TRAFFICKING. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE SUPERINTENDENT SHALL SUBMIT A REPORT TO THE LEGISLATURE DETAILING SUCH PROGRAMS, INCLUDING ESTABLISHING MINIMUM REQUIREMENTS FOR SUCH PROGRAMS.

S 902. SECURITY. EVERY DEALER SHALL IMPLEMENT A SECURITY PLAN FOR SECURING FIREARMS, RIFLES AND SHOTGUNS, INCLUDING FIREARMS, RIFLES AND SHOTGUNS IN SHIPMENT. THE PLAN MUST SATISFY AT LEAST THE FOLLOWING REQUIREMENTS:

1. DISPLAY CASES SHALL BE LOCKED AT ALL TIMES EXCEPT WHEN REMOVING A SINGLE FIREARM, RIFLE OR SHOTGUN TO SHOW A CUSTOMER, AND CUSTOMERS SHALL HANDLE FIREARMS, RIFLES OR SHOTGUNS ONLY UNDER THE DIRECT SUPERVISION OF AN EMPLOYEE;

2. ALL FIREARMS, RIFLES AND SHOTGUNS SHALL BE SECURED, OTHER THAN DURING BUSINESS HOURS, IN A LOCKED FIREPROOF SAFE OR VAULT IN THE LICENSEE'S BUSINESS PREMISES OR IN A SIMILAR SECURED AND LOCKED AREA; AND

3. AMMUNITION SHALL BE STORED SEPARATELY FROM THE FIREARMS, RIFLES AND SHOTGUNS AND OUT OF REACH OF THE CUSTOMERS.

S 903. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS. EVERY RETAIL DEALER SHALL EXCLUDE ALL PERSONS UNDER EIGHTEEN YEARS OF AGE FROM THOSE PORTIONS OF ITS PREMISES WHERE FIREARMS, RIFLES, SHOTGUNS, OR AMMUNITION ARE STOCKED OR SOLD, UNLESS SUCH PERSON IS ACCOMPANIED BY A PARENT OR GUARDIAN.

S 904. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES. EVERY DEALER SHALL SELL OR OTHERWISE DISPOSE OF FIREARMS, RIFLES, AND SHOTGUNS ONLY AT THE LOCATION LISTED ON THE DEALER'S FEDERAL FIREARMS LICENSE OR AT GUN SHOWS.

S 905. EMPLOYEE TRAINING. EVERY RETAIL DEALER SHALL PROVIDE TRAINING TO ALL EMPLOYEES AND OTHER PERSONNEL ENGAGED IN THE RETAIL SALE OF FIREARMS, RIFLES, AND SHOTGUNS RELATING TO:

1. THE LAW GOVERNING FIREARM, RIFLE, AND SHOTGUN TRANSFERS BY FEDERAL FIREARMS LICENSEES AND INDIVIDUALS;

2. HOW TO RECOGNIZE STRAW PURCHASES AND OTHER ATTEMPTS TO PURCHASE FIREARMS, RIFLES, OR SHOTGUNS ILLEGALLY;

3. HOW TO TEACH CONSUMERS RULES OF GUN SAFETY, INCLUDING BUT NOT LIMITED TO THE SAFE HANDLING AND STORAGE OF FIREARMS, RIFLES, AND SHOTGUNS; AND

4. HOW TO COMPLY WITH PROVISIONS OF SECTION NINE HUNDRED SIX OF THIS ARTICLE.

NO EMPLOYEE OR AGENT OF ANY RETAIL DEALER SHALL PARTICIPATE IN THE SALE OR DISPOSITION OF FIREARMS, RIFLES, OR SHOTGUNS UNLESS SUCH PERSON IS AT LEAST TWENTY-ONE YEARS OF AGE AND HAS FIRST RECEIVED THE TRAINING REQUIRED BY THIS SECTION. THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS SETTING FORTH MINIMUM REQUIREMENTS FOR THE MAINTENANCE OF RECORDS OF SUCH TRAINING.

S 906. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS. 1. NO RETAIL DEALER SHALL SELL, DELIVER, LEASE, OR TRANSFER ANY FIREARM, RIFLE, OR SHOTGUN TO ANY RETAIL CUSTOMER UNLESS SUCH RETAIL DEALER HAS: (A) CONDUCTED THE REQUIRED NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND COMPLIED WITH THE PROVISIONS OF 18 U.S.C. 922(T); (B) SHOWN THE TRANSFEREE HOW TO LOAD AND UNLOAD THE FIREARM, RIFLE, OR SHOTGUN, HOW TO ENGAGE AND DISENGAGE ALL SAFETY DEVICES, AND HOW TO SAFELY STORE THE WEAPON; (C) PROVIDED THE TRANSFEREE WITH A GUN LOCKING DEVICE AS REQUIRED BY SECTION THREE HUNDRED NINETY-SIX-EE OF THIS CHAPTER; (D) PROVIDED THE TRANSFEREE WITH A COPY OF THE SAFE STORAGE WARNING NOTICE SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND A COPY OF THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES DISPOSITION OF FIREARMS NOTICE; (E) OBTAINED THE TRANSFEREE'S SIGNATURE ON A FORM PROMULGATED BY THE SUPERINTENDENT CERTIFYING THAT THE TRANSFEREE HAS RECEIVED THE INSTRUCTION AND NOTICE REQUIRED BY THIS SECTION; AND (F) PROVIDED THE TRANSFEREE WITH A WRITTEN RECORD OF THE MAKE, MODEL, CALIBER OR GAUGE, AND SERIAL NUMBER OF EACH FIREARM, RIFLE, OR SHOTGUN TRANSFERRED TO ENABLE THE TRANSFEREE TO ACCURATELY DESCRIBE THE WEAPON TO LAW ENFORCEMENT IN THE EVENT THAT IT IS SUBSEQUENTLY LOST OR STOLEN.

2. NO RETAIL DEALER SHALL SELL, DELIVER, LEASE, OR TRANSFER ANY FIREARM, RIFLE, OR SHOTGUN TO ANY PERSON UNLESS AT THE TIME OF SALE, DELIVERY, LEASE, OR TRANSFER SUCH FIREARM, RIFLE, OR SHOTGUN IS ACCOMPANIED BY THE FOLLOWING WARNING, WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL LETTERS, AND WHICH SHALL BE PRINTED ON A LABEL AFFIXED TO SUCH FIREARM, RIFLE, OR SHOTGUN AND PLACED IN THE CONTAINER IN WHICH SUCH FIREARM, RIFLE, OR SHOTGUN IS SOLD, DELIVERED, LEASED OR TRANSFERRED: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED AND LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND INACCESSIBLE TO CHILDREN AND OTHER UNAUTHORIZED PERSONS. MORE THAN 200,000 FIREARMS LIKE THIS ONE ARE STOLEN FROM THEIR OWNERS EVERY YEAR IN THE UNITED STATES. IN ADDITION, THERE ARE MORE THAN A THOUSAND SUICIDES EACH YEAR BY YOUNGER CHILDREN AND TEENAGERS WHO GET ACCESS TO FIREARMS. HUNDREDS MORE DIE FROM ACCIDENTAL DISCHARGE. IT IS LIKELY THAT MANY MORE CHILDREN SUSTAIN SERIOUS WOUNDS, OR INFLICT SUCH WOUNDS ACCIDENTALLY ON OTHERS. IN ORDER TO LIMIT THE CHANCE OF SUCH MISUSE, IT IS IMPERATIVE THAT YOU KEEP THIS WEAPON LOCKED IN A SECURE PLACE AND TAKE OTHER STEPS NECESSARY TO LIMIT THE POSSIBILITY OF THEFT OR ACCIDENT. FAILURE TO TAKE REASONABLE PREVENTIVE STEPS MAY RESULT IN INNOCENT LIVES BEING LOST, AND IN SOME CIRCUMSTANCES MAY RESULT IN YOUR LIABILITY."

S 907. MAINTENANCE OF RECORDS. EVERY DEALER SHALL ESTABLISH AND MAINTAIN SUCH PURCHASE, SALE, INVENTORY, AND OTHER RECORDS AT THE DEALER'S PLACE OF BUSINESS IN SUCH FORM AND FOR SUCH PERIOD AS THE SUPERINTENDENT SHALL REQUIRE, AND SHALL AT A MINIMUM INCLUDE THE FOLLOWING:

1. EVERY DEALER SHALL RECORD THE MAKE, MODEL, CALIBER OR GAUGE, AND SERIAL NUMBER OF ALL FIREARMS, RIFLES, AND SHOTGUNS THAT ARE ACQUIRED OR DISPOSED OF NOT LATER THAN ONE BUSINESS DAY AFTER THEIR ACQUISITION OR DISPOSITION. MONTHLY BACKUPS OF THESE RECORDS SHALL BE MAINTAINED IN A SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER MISHAP;

2. ALL FIREARMS, RIFLES, AND SHOTGUNS ACQUIRED BUT NOT YET DISPOSED OF MUST BE ACCOUNTED FOR THROUGH AN INVENTORY CHECK PREPARED ONCE EACH MONTH AND MAINTAINED IN A SECURE LOCATION;

3. FIREARM, RIFLE, AND SHOTGUN SALES INFORMATION, INCLUDING THE SERIAL NUMBERS OF FIREARMS, RIFLES, AND SHOTGUNS SOLD, DATES OF SALE, AND IDENTITY OF PURCHASERS, SHALL BE MAINTAINED AND MADE AVAILABLE TO GOVERNMENT LAW ENFORCEMENT AGENCIES AND TO THE MANUFACTURER OF THE WEAPON OR ITS DESIGNEE; AND

4. EVERY DEALER SHALL MAINTAIN RECORDS OF CRIMINAL FIREARM, RIFLE, AND SHOTGUN TRACES INITIATED BY THE FEDERAL BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES ("ATF"). ALL ATF FORM 4473 TRANSACTION RECORDS SHALL BE RETAINED ON THE DEALER'S BUSINESS PREMISES IN A SECURE CONTAINER DESIGNED TO PREVENT LOSS BY FIRE, THEFT, OR OTHER MISHAP.

S 908. COOPERATION WITH LAW ENFORCEMENT. EVERY DEALER SHALL:

1. PROVIDE GOVERNMENT LAW ENFORCEMENT AGENCIES WITH FULL ACCESS TO ANY DOCUMENTS RELATED TO THE ACQUISITION AND DISPOSITION OF FIREARMS OR EMPLOYEE TRAINING DEEMED NECESSARY BY SUCH AGENCY;

2. PARTICIPATE IN AND COMPLY WITH ALL MONITORING OF FIREARM, RIFLE, AND SHOTGUN DISTRIBUTION BY MANUFACTURERS OR GOVERNMENT LAW ENFORCEMENT AGENCIES;

3. REPORT ALL ATF TRACE REQUESTS BY MAKE, MODEL, AND SERIAL NUMBER OF FIREARM, DATE OF TRACE, AND DATE OF SALE TO THE MANUFACTURER OF THE FIREARM, RIFLE, OR SHOTGUN ON A MONTHLY BASIS, UNLESS ATF DIRECTS THE LICENSEE NOT TO REPORT CERTAIN TRACES, AND ALSO REPORT SUCH TRACES TO THE SUPERINTENDENT FOR USE IN CONJUNCTION WITH THE CRIMINAL GUN CLEARINGHOUSE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE EXECUTIVE LAW;

4. ANALYZE ALL ATF TRACE REQUESTS TO DETERMINE WHETHER THERE IS A PATTERN OF FIREARMS, RIFLES, OR SHOTGUNS SOLD BY THE DEALER BEING USED FOR CRIMINAL PURPOSES, AND, IF SUCH PATTERN EXISTS, TAKE CORRECTIVE ACTION AND REPORT SUCH FINDINGS AND SUCH CORRECTIVE ACTION TO THE SUPERINTENDENT; AND

5. REPORT ANY FIREARM, RIFLE, OR SHOTGUN SALES THAT APPEAR TO BE STRAW PURCHASES OR OTHERWISE CREATE A REASONABLE SUSPICION THAT THE FIREARM, RIFLE, OR SHOTGUN MAY BE DIVERTED FROM THE LEGAL STREAM OF COMMERCE.

S 909. INTERNAL COMPLIANCE AND CERTIFICATION. 1. EVERY DEALER SHALL:

(A) IMPLEMENT AND MAINTAIN SUFFICIENT INTERNAL COMPLIANCE PROCEDURES TO ENSURE COMPLIANCE WITH THE REQUIREMENTS OF THIS ARTICLE AND ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS GOVERNING THE SALE, TRANSFER, AND DISPOSAL OF FIREARMS, RIFLES, AND SHOTGUNS; AND

(B) ANNUALLY CERTIFY TO THE SUPERINTENDENT THAT SUCH DEALER HAS COMPLIED WITH ALL OF THE REQUIREMENTS OF THIS ARTICLE. THE SUPERINTENDENT SHALL BY REGULATION DETERMINE THE FORM AND CONTENT OF SUCH ANNUAL CERTIFICATION.

2. THE SUPERINTENDENT OF STATE POLICE SHALL PROMULGATE REGULATIONS ESTABLISHING PERIODIC INSPECTIONS, DURING REGULAR AND USUAL BUSINESS HOURS, BY THE DIVISION OF STATE POLICE OF THE PREMISES OF EVERY DEALER TO DETERMINE COMPLIANCE BY SUCH DEALER WITH THE REQUIREMENTS OF THIS ARTICLE. EVERY DEALER SHALL PROVIDE THE DIVISION OF STATE POLICE WITH FULL ACCESS TO SUCH DEALER'S PREMISES FOR SUCH INSPECTIONS.

S 910. RULES AND REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE SUCH ADDITIONAL RULES AND REGULATIONS AS THE SUPERINTENDENT SHALL DEEM NECESSARY TO PREVENT FIREARMS, RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF COMMERCE.

S 911. VIOLATIONS. ANY PERSON, FIRM, OR CORPORATION WHO KNOWINGLY VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A

MISDEMEANOR PUNISHABLE AS PROVIDED FOR IN THE PENAL LAW, AND SHALL BE GUILTY OF A CLASS E FELONY FOR A SECOND VIOLATION OCCURRING WITHIN FIVE YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS ARTICLE.

S 3. Subdivision 1 of section 396-ee of the general business law, as added by chapter 189 of the laws of 2000, is amended to read as follows:

(1) No person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall sell, deliver or transfer any such rifle, shotgun or firearm to another person unless the transferee is provided at the time of sale, delivery or transfer with a gun locking device and a label containing the quoted language specified in subdivision two of [this] section [is either] NINE HUNDRED SIX OF THIS CHAPTER, WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL LETTERS, AND SHALL BE affixed to such rifle, shotgun or firearm [or] AND placed in the container in which such rifle, shotgun or firearm is sold, delivered or transferred. For the purposes of this section, the term "gun locking device" shall mean an integrated design feature or an attachable accessory that is resistant to tampering and is effective in preventing the discharge of such rifle, shotgun or firearm by a person who does not have access to the key, combination or other mechanism used to disengage the device. The division of state police shall develop and promulgate rules and regulations setting forth the specific devices or the minimum standards and criteria therefor which constitute an effective gun locking device.

S 4. Subdivision 1 of section 400.00 of the penal law, as amended by chapter 189 of the laws of 2000, is amended to read as follows:

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character; (c) who has not been convicted anywhere of a felony or a serious offense; (d) who has stated whether he or she has ever suffered any mental illness or been confined to any hospital or institution, public or private, for mental illness; (e) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (f) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; and (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test; and (g) concerning whom no good cause exists for the denial of the license. No person shall engage in the

business of gunsmith or dealer in firearms unless licensed pursuant to this section, AND NO PERSON SHALL ENGAGE IN THE BUSINESS OF DEALER IN FIREARMS UNLESS SUCH PERSON COMPLIES WITH THE PROVISIONS OF ARTICLES THIRTY-NINE-DD AND FORTY OF THE GENERAL BUSINESS LAW. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply.

S 5. Subdivisions 11 and 12 of section 400.00 of the penal law, subdivision 11 as amended by chapter 210 of the laws of 1999 and subdivision 12 as amended by chapter 449 of the laws of 1993, are amended to read as follows:

11. License: revocation and suspension. The conviction of a licensee anywhere of a felony or serious offense shall operate as a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. Except for a license issued pursuant to section 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. A LICENSE TO ENGAGE IN THE BUSINESS OF DEALER MAY BE REVOKED OR SUSPENDED FOR ANY VIOLATION OF THE PROVISIONS OF ARTICLE THIRTY-NINE-DD OR FORTY OF THE GENERAL BUSINESS LAW. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality.

12. Records required of gunsmiths and dealers in firearms. [Any] IN ADDITION TO THE REQUIREMENTS SET FORTH IN ARTICLES THIRTY-NINE-DD AND FORTY OF THE GENERAL BUSINESS LAW, ANY person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20 OF THIS CHAPTER. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The record

book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.

S 6. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

S 7. This act shall take effect on the ninetieth day after it shall have become a law; provided that the superintendent of the division of state police is authorized and directed to immediately adopt, amend, and promulgate such rules and regulations as may be necessary and desirable to effectuate the purposes of section two of this act.