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

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January 21, 2009

Introduced by M. of A. KOON, BOYLAND, O'DONNELL, DINOWITZ, MILLMAN, ZEBROWSKI, EDDINGTON, COOK -- Multi-Sponsored by -- M. of A. BING, CAHILL, COLTON, DIAZ, GALEF, GOTTFRIED, JOHN, LAVINE, LIFTON, MAYER-SOHN, PHEFFER, ROBINSON, WEISENBERG -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to entering identifying information into the criminal gun clearinghouse

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

Section 1. Subdivisions 2, 4 and 5 of section 230 of the executive law, as added by chapter 189 of the laws of 2000, are amended to read as follows:

2. The superintendent of the division of state police, in cooperation with the United States department of [treasury] JUSTICE, bureau of alcohol, tobacco [and], firearms AND EXPLOSIVES and district attorneys in New York state, shall develop and implement a strategy for the interdiction of guns illegally entering New York from supplier states. The strategy shall include identifying and prosecuting gun traffickers and suppliers of such guns who may be violating federal, state or local laws, and cooperating with the United States department of [treasury] JUSTICE, bureau of alcohol, tobacco [and], firearms AND EXPLOSIVES and appropriate prosecutorial agencies and law enforcement agencies in supplier states in the investigation and enforcement of such laws. District attorneys are authorized to enter into collaborative agreements with prosecutorial and other governmental agencies and entities in supplier states in an effort to stop the movement of illegal guns into New York.

4. (A) The superintendent of the division of state police shall establish and maintain within the division a criminal gun clearinghouse as a central repository of information regarding all guns seized, forfeited, found or otherwise coming into the possession of any state or local law

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

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enforcement agency which are believed to have been used in the commission of a crime. The superintendent of the division of state police shall adopt and promulgate regulations prescribing reporting procedures for such state or local law enforcement agencies, including the form for reporting such information. In addition to any other information which the superintendent of the division of state police may require, the form shall require [(a)](I) the serial number [or], BALLISTIC INFORMATION AND other identifying information on the gun, EXPENDED PROJECTILE OR EXPENDED SHELL CASING, if available and [(b)](II) a brief description of the circumstances under which the gun, EXPENDED PROJECTILE OR EXPENDED SHELL CASING came into the possession of the law enforcement agency, including the crime which was or may have been committed with the gun.

(B) ANY GUN, EXPENDED PROJECTILE OR EXPENDED SHELL CASING SEIZED, FOUND, OR OTHERWISE COMING INTO POSSESSION OF ANY STATE OR LOCAL LAW ENFORCEMENT AGENCY SHALL BE SUBMITTED TO THE DIVISION OF STATE POLICE, WHICH SHALL ENTER (I) THE SERIAL NUMBER, BALLISTIC INFORMATION AND IDENTIFYING INFORMATION ON THE GUN, EXPENDED PROJECTILE, OR EXPENDED SHELL CASING, IF AVAILABLE; AND (II) A BRIEF DESCRIPTION OF THE CIRCUMSTANCES UNDER WHICH THE GUN, EXPENDED PROJECTILE OR EXPENDED SHELL CASING CAME INTO THE POSSESSION OF THE LAW ENFORCEMENT AGENCY, INTO THE CRIMINAL GUN CLEARINGHOUSE ESTABLISHED IN PARAGRAPH (A) OF THIS SUBDIVISION.

(C) MATERIALS REQUIRED TO BE SUBMITTED TO THE DIVISION OF STATE POLICE SHALL BE SUBMITTED WITHIN THIRTY DAYS OF COMING INTO THE POSSESSION OF A STATE OR LOCAL LAW ENFORCEMENT AGENCY. SUCH MATERIALS SHALL BE TESTED OR EXAMINED AS REQUIRED BY THIS SUBDIVISION WITHIN THIRTY DAYS OF THEIR RECEIPT BY THE DIVISION.

5. In any case where a state or local law enforcement agency investigates the commission of a crime in this state and a specific gun is known to have been used in such crime, such agency shall submit a request FOR A TRACE OF SUCH GUN to:

(A) the national tracing center of the United States [Department] DEPARTMENT of [Treasury] JUSTICE, bureau of alcohol, tobacco [and], firearms AND EXPLOSIVES to trace the movement of such gun [and such federal agency shall be requested to provide the superintendent of the division of state police and the local law enforcement agency with the results of such a trace], AND

(B) THE PISTOL AND REVOLVER BALLISTIC IDENTIFICATION DATABANK ESTABLISHED PURSUANT TO SECTION THREE HUNDRED NINETY-SIX-FF OF THE GENERAL BUSINESS LAW.

This subdivision shall not apply where the source of a gun is already known to a local law enforcement agency.

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