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

4377

2009-2010 Regular Sessions

I N A S S E M B L Y

February 3, 2009

Introduced by M. of A. KOON, ENGLEBRIGHT, CARROZZA -- Multi-Sponsored by -- M. of A. CLARK, EDDINGTON, GALEF -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to the compensation for injury resulting from the sale of a weapon without a gun locking device and to amend the penal law, in relation to the definition of gun locking device

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

Section 1. The general obligations law is amended by adding a new section 11-108 to read as follows:

S 11-108. COMPENSATION FOR INJURY RESULTING FROM THE SALE OF A WEAPON WITHOUT A GUN LOCKING DEVICE. 1. NO PERSON, FIRM, CORPORATION, OR OTHER ENTITY ENGAGED IN THE RETAIL BUSINESS OF SELLING RIFLES, SHOTGUNS, OR FIREARMS, AS THOSE TERMS ARE DEFINED IN SECTION 265.00 OF THE PENAL LAW, SHALL SELL OR TRANSFER ANY SUCH WEAPON TO ANOTHER PERSON UNLESS THE TRANSFEREE IS PROVIDED AT THE TIME OF SALE OR DELIVERY WITH A GUN LOCKING DEVICE THAT IS CAPABLE OF PREVENTING THE WEAPON FROM DISCHARGING.

2. AS USED IN THIS SECTION, THE TERM "GUN LOCKING DEVICE" MEANS AN INTEGRATED DESIGN FEATURE OR AN ATTACHABLE ACCESSORY THAT IS RESISTANT TO TAMPERING AND IS EFFECTIVE IN PREVENTING THE DISCHARGE OF A RIFLE, SHOTGUN, OR FIREARM BY A PERSON WHO DOES NOT HAVE ACCESS TO THE KEY, COMBINATION, OR OTHER MECHANISM USED TO DISENGAGE THE DEVICE.

3. ANY PERSON WHO SHALL BE INJURED IN PERSON, PROPERTY, MEANS OF SUPPORT, OR OTHERWISE, WHETHER RESULTING IN HIS OR HER DEATH OR NOT, BY ANY PERSON USING A FIREARM, RIFLE, OR SHOTGUN, SHALL HAVE A RIGHT OF ACTION AND MAY RECEIVE COMPENSATORY DAMAGES AGAINST ANY PERSON, FIRM, CORPORATION, OR OTHER ENTITY ENGAGED IN THE RETAIL BUSINESS OF SELLING FIREARMS, RIFLES, OR SHOTGUNS, AS THOSE TERMS ARE DEFINED IN SECTION 265.00 OF THE PENAL LAW, IF SUCH PERSON, FIRM, CORPORATION, OR OTHER ENTITY SOLD OR TRANSFERRED THE FIREARM, RIFLE, OR SHOTGUN TO ANY PERSON

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

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IN VIOLATION OF SUBDIVISION ONE OF THIS SECTION AND SUCH SALE OR TRANSFER OCCURRED PRIOR TO OR ON THE DATE OF SUCH INJURY. SUCH CAUSE OF ACTION SHALL EXIST REGARDLESS OF THE NEGLIGENCE OR LACK THEREOF OF THE PERSON, FIRM, CORPORATION, OR OTHER ENTITY SELLING OR TRANSFERRING THE FIREARM, RIFLE, OR SHOTGUN. SUCH ACTION MAY BE BROUGHT IN ANY COURT OF COMPETENT JURISDICTION.

4. IN CASE OF DEATH OF EITHER PARTY, THE ACTION OR RIGHT OF ACTION GIVEN UNDER SUBDIVISION THREE OF THIS SECTION SHALL SURVIVE TO OR AGAINST HIS OR HER EXECUTOR OR ADMINISTRATOR.

5. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO IMPOSE CIVIL OR CRIMINAL LIABILITY UPON ANY PERSON WHO IS NOT ENGAGED IN THE RETAIL BUSINESS OF SELLING FIREARMS, RIFLES, OR SHOTGUNS AND WHO SELLS OR TRANSFERS SUCH A WEAPON WITHOUT A GUN LOCKING DEVICE.

6. NOTHING CONTAINED IN THIS SECTION SHALL BE CONSTRUED AS LIMITING ANY EXISTING LEGAL CAUSE OF ACTION OR REMEDY AT LAW, IN STATUTE, OR IN EQUITY.

S 2. Section 265.00 of the penal law is amended by adding a new subdivision 24 to read as follows:

24. "GUN LOCKING DEVICE" MEANS AN INTEGRATED DESIGN FEATURE OR AN ATTACHABLE ACCESSORY THAT IS RESISTANT TO TAMPERING AND IS EFFECTIVE IN PREVENTING THE DISCHARGE OF A 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 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.