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

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:

Section 1. Section 396-ff of the general business law, as added by chapter 189 of the laws of 2000, is amended to read as follows:

S 396-ff. [Pistol and revolver] FIREARM ballistic identification databank. (1) For the purposes of this section, the following terms shall have the following meanings:

(a) "Manufacturer" means any person, firm or corporation possessing a valid federal license that permits such person, firm or corporation to engage in the business of manufacturing [pistols or revolvers] FIREARMS or ammunition therefor for the purpose of sale or distribution.

(b) "Shell casing" means that part of ammunition capable of being used in a [pistol or revolver] FIREARM that contains the primer and propellant powder to discharge the bullet or projectile.

(C) "FIREARM" MEANS A PISTOL, REVOLVER, OR ASSAULT WEAPON AS DEFINED IN SECTION 265.00 OF THE PENAL LAW, RIFLE, OR OTHER LONG-BARRELED WEAPON.

(2) [On and after March first, two thousand one, any] ANY manufacturer that ships, transports or delivers a [pistol or revolver] FIREARM to any 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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promulgated by the division of state police, include in the container with such [pistol or revolver] FIREARM a separate sealed container that encloses:

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

(b) any additional information that identifies such [pistol or revolver] FIREARM and shell casing as required by such rules and regulations.

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

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

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

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

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

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

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

(7) Any person, firm or corporation who knowingly violates any of the provisions of this section shall be guilty of a violation, punishable as provided in the penal law. Any person, firm or corporation who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section shall be guilty of a class A misdemeanor, punishable as provided in the penal law.

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