

1715

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

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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative findings and declaration. The legislature here-  
2 by finds and declares as follows:  
3 1. Firearms, rifles and shotguns are used to kill nearly 30,000 indi-  
4 viduals in the United States every year, including 1,000 individuals in  
5 New York state alone. Additionally, there are 100,000 non-fatal injuries  
6 across the country. The federal government has largely ignored this  
7 public health crisis and has left it up to state and local governments  
8 to protect its citizens. Firearm violence also costs millions of dollars  
9 and causes incalculable emotional damage, devastating families and  
10 communities throughout the country. Therefore, the state of New York  
11 has a strong interest in reducing violence and crimes that involve the  
12 use of firearms and the illegal trafficking of firearms. Illegal guns  
13 obtained throughout the state end up in the hands of criminals, youth  
14 and violent individuals who use them to threaten, maim and kill.  
15 2. There is a thriving underground market for illegal firearms, large-  
16 ly driven by demand from drug gangs and other criminals. A highly effi-  
17 cient and continuous business practice exists in which firearms are  
18 moved from legal manufacture and sale to prohibited purchasers, making  
19 them illegal firearms. In 2001, approximately 12,000 illegal firearms,  
20 rifles and shotguns were seized in New York state. From November 2000  
21 to April 2002, 2700 crime guns were entered into the state crime gun  
22 database. One thousand of these were long guns which, outside of New  
23 York City, are sold without a permit. A significant portion of guns  
24 involved in crimes upstate originate within the state. In fact, youth

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

LBD01930-01-9

1 data reveals that in 2000, 40% of the crime guns in Buffalo originated  
2 within a five-mile radius of that city.

3 3. A substantial portion of illegal firearms are diverted to the ille-  
4 gal market through licensed gun dealers. Rogue gun dealers play a key  
5 role in this market. These rogue dealers funnel guns to the illegal  
6 market through a variety of channels. One of the most common means is to  
7 allow "straw purchases". A straw purchase occurs when a person purchases  
8 a gun on behalf of a prohibited person. The federal bureau of alcohol,  
9 tobacco and firearms (ATF) conducted an investigation of gun trafficking  
10 from July 1996 to December 1998 and found that almost 26,000 trafficked  
11 firearms were associated with investigations in which there was a straw  
12 purchaser. Almost 50% of all trafficking investigations involved straw  
13 purchasers, with an average of 37 firearms trafficked per investigation.  
14 Although most gun dealers operate their businesses legally and responsi-  
15 bly, some gun dealers who are corrupt or maintain shoddy recordkeeping  
16 practices flood the streets with illegal weapons as a result of their  
17 unrestricted access to new gun inventory and the unwillingness of gun  
18 manufacturers to terminate their supply to these rogue dealers. Current  
19 federal and state regulation has not curbed the business practice of  
20 illegal gun dealers. According to a 2004 study by Americans for Gun  
21 Safety, of the 120 worst gun dealers in the country, namely those deal-  
22 ers with an average of 500 crime guns traced to them, 96 were still in  
23 operation.

24 4. Moreover, this problem is not limited to unlicensed sellers, and  
25 clearly includes federal firearms licensees (FFLs). Indeed, although  
26 FFLs were involved in under 10% of the trafficking investigations under-  
27 taken by ATF, they were associated with the largest number of diverted  
28 firearms--over 40,000 guns, which is nearly half of the total number of  
29 trafficked firearms documented during the two-year period of ATF's  
30 investigation.

31 5. Current New York state laws governing firearm dealers are inade-  
32 quate to prevent the diversion of firearms to the illegal marketplace.  
33 Additional protections that are needed include, but are not limited to,  
34 better gun dealer internal compliance procedures, programs to eliminate  
35 straw purchases, increased liability insurance, improved security meas-  
36 ures, reducing youth access, mandatory training for gun dealer employ-  
37 ees, and improved recordkeeping requirements. The additional protections  
38 set forth in this act will greatly enhance the state's efforts to reduce  
39 criminal activity in the state.

40 S 2. Article 40 and sections 900 and 901 of the general business law,  
41 as renumbered by chapter 407 of the laws of 1973, are renumbered article  
42 50 and sections 1001 and 1002 and a new article 40 is added to read as  
43 follows:

#### 44 ARTICLE 40

#### 45 PREVENTING THE SALE OF FIREARMS, 46 RIFLES, AND SHOTGUNS TO CRIMINALS

47 SECTION 900. DEFINITIONS.

48 901. REASONABLE MEASURES TO PREVENT SALES AND  
49 TRANSFERS TO CRIMINALS.

50 902. INSURANCE.

51 903. SECURITY.

52 904. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS.

53 905. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES.

54 906. EMPLOYEE TRAINING.

55 907. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS.

56 908. MAINTENANCE OF RECORDS.

1 909. COOPERATION WITH LAW ENFORCEMENT.

2 910. INTERNAL COMPLIANCE AND CERTIFICATION.

3 911. RULES AND REGULATIONS.

4 912. VIOLATIONS.

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

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

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

13 3. "FIREARM" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-  
14 SION THREE OF SECTION 265.00 OF THE PENAL LAW.

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

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

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

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

34 8. "SHOTGUN" HAS THE SAME MEANING AS THAT TERM IS DEFINED IN SUBDIVI-  
35 SION TWELVE OF SECTION 265.00 OF THE PENAL LAW.

36 9. "STRAW PURCHASE" MEANS THE PURCHASE, OR ATTEMPT TO PURCHASE, BY A  
37 PERSON OF A FIREARM, RIFLE, OR SHOTGUN FOR, ON BEHALF OF, OR FOR THE USE  
38 OF ANOTHER PERSON, KNOWING THAT IT WOULD BE UNLAWFUL FOR SUCH OTHER  
39 PERSON TO POSSESS SUCH FIREARM, RIFLE, OR SHOTGUN, OR AN ATTEMPT TO MAKE  
40 SUCH A PURCHASE.

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

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

46 S 901. REASONABLE MEASURES TO PREVENT SALES AND TRANSFERS TO CRIMI-  
47 NALS. EVERY DEALER SHALL ADOPT REASONABLE MEASURES TO PREVENT FIREARMS,  
48 RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM THE LEGAL STREAM OF  
49 COMMERCE, INTENTIONALLY OR OTHERWISE, FOR LATER SALE, TRANSFER, OR  
50 DISPOSAL TO INDIVIDUALS NOT LEGALLY ENTITLED TO PURCHASE OR POSSESS SUCH  
51 WEAPONS. SUCH MEASURES SHALL INCLUDE, BUT NEED NOT BE LIMITED TO,  
52 PROGRAMS TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART  
53 ILLEGAL GUN TRAFFICKING. THE SUPERINTENDENT SHALL DEVELOP PROGRAMS  
54 DESIGNED TO ELIMINATE SALES TO STRAW PURCHASERS AND TO OTHERWISE THWART  
55 ILLEGAL GUN TRAFFICKING. WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS  
56 ARTICLE, THE SUPERINTENDENT SHALL SUBMIT A REPORT TO THE LEGISLATURE

1 DETAILING SUCH PROGRAMS, INCLUDING ESTABLISHING MINIMUM REQUIREMENTS FOR  
2 SUCH PROGRAMS.

3 S 902. INSURANCE. EVERY DEALER SHALL CARRY INSURANCE COVERAGE AGAINST  
4 LIABILITY FOR DAMAGE TO PROPERTY AND FOR INJURY TO OR DEATH OF ANY  
5 PERSON AS A RESULT OF THE SALE, DELIVERY, LEASE, OR TRANSFER OF A  
6 FIREARM, RIFLE, OR SHOTGUN IN AMOUNTS APPROPRIATE TO ITS LEVEL OF SALES,  
7 BUT NO LESS THAN ONE MILLION DOLLARS FOR EACH INCIDENT OF DAMAGE, INJU-  
8 RY, OR DEATH.

9 S 903. SECURITY. EVERY DEALER SHALL IMPLEMENT A SECURITY PLAN FOR  
10 SECURING FIREARMS, RIFLES AND SHOTGUNS, INCLUDING FIREARMS, RIFLES AND  
11 SHOTGUNS IN SHIPMENT. THE PLAN MUST SATISFY AT LEAST THE FOLLOWING  
12 REQUIREMENTS:

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

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

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

23 S 904. ACCESS TO FIREARMS, RIFLES, AND SHOTGUNS. EVERY RETAIL DEALER  
24 SHALL EXCLUDE ALL PERSONS UNDER EIGHTEEN YEARS OF AGE FROM THOSE  
25 PORTIONS OF ITS PREMISES WHERE FIREARMS, RIFLES, SHOTGUNS, OR AMMUNITION  
26 ARE STOCKED OR SOLD, UNLESS SUCH PERSON IS ACCOMPANIED BY A PARENT OR  
27 GUARDIAN.

28 S 905. LOCATION OF FIREARM, RIFLE, AND SHOTGUN SALES. EVERY DEALER  
29 SHALL SELL OR OTHERWISE DISPOSE OF FIREARMS, RIFLES, AND SHOTGUNS ONLY  
30 AT THE LOCATION LISTED ON THE DEALER'S FEDERAL FIREARMS LICENSE OR AT  
31 GUN SHOWS.

32 S 906. EMPLOYEE TRAINING. EVERY RETAIL DEALER SHALL PROVIDE TRAINING  
33 TO ALL EMPLOYEES AND OTHER PERSONNEL ENGAGED IN THE RETAIL SALE OF  
34 FIREARMS, RIFLES, AND SHOTGUNS RELATING TO:

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

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

39 3. HOW TO TEACH CONSUMERS RULES OF GUN SAFETY, INCLUDING BUT NOT  
40 LIMITED TO THE SAFE HANDLING AND STORAGE OF FIREARMS, RIFLES, AND SHOT-  
41 GUNS; AND

42 4. HOW TO COMPLY WITH PROVISIONS OF SECTION NINE HUNDRED SEVEN OF THIS  
43 ARTICLE.

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

50 S 907. RETAIL SALES OF FIREARMS, RIFLES, AND SHOTGUNS. 1. NO RETAIL  
51 DEALER SHALL SELL, DELIVER, LEASE, OR TRANSFER ANY FIREARM, RIFLE, OR  
52 SHOTGUN TO ANY RETAIL CUSTOMER UNLESS SUCH RETAIL DEALER HAS: (A)  
53 CONDUCTED THE REQUIRED NATIONAL INSTANT CRIMINAL BACKGROUND CHECK AND  
54 COMPLIED WITH THE PROVISIONS OF 18 U.S.C. 922(T); (B) SHOWN THE TRANS-  
55 FEREE HOW TO LOAD AND UNLOAD THE FIREARM, RIFLE, OR SHOTGUN, HOW TO  
56 ENGAGE AND DISENGAGE ALL SAFETY DEVICES, AND HOW TO SAFELY STORE THE

1 WEAPON; (C) PROVIDED THE TRANSFEREE WITH A GUN LOCKING DEVICE AS  
2 REQUIRED BY SECTION THREE HUNDRED NINETY-SIX-EE OF THIS CHAPTER; (D)  
3 PROVIDED THE TRANSFEREE WITH A COPY OF THE SAFE STORAGE WARNING NOTICE  
4 SET FORTH IN SUBDIVISION TWO OF THIS SECTION AND A COPY OF THE FEDERAL  
5 BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS DISPOSITION OF FIREARMS NOTICE;  
6 (E) OBTAINED THE TRANSFEREE'S SIGNATURE ON A FORM PROMULGATED BY THE  
7 SUPERINTENDENT CERTIFYING THAT THE TRANSFEREE HAS RECEIVED THE INSTRUC-  
8 TION AND NOTICE REQUIRED BY THIS SECTION; AND (F) PROVIDED THE TRANSFER-  
9 EE WITH A WRITTEN RECORD OF THE MAKE, MODEL, CALIBER OR GAUGE, AND SERI-  
10 AL NUMBER OF EACH FIREARM, RIFLE, OR SHOTGUN TRANSFERRED TO ENABLE THE  
11 TRANSFEREE TO ACCURATELY DESCRIBE THE WEAPON TO LAW ENFORCEMENT IN THE  
12 EVENT THAT IT IS SUBSEQUENTLY LOST OR STOLEN.

13 2. NO RETAIL DEALER SHALL SELL, DELIVER, LEASE, OR TRANSFER ANY  
14 FIREARM, RIFLE, OR SHOTGUN TO ANY PERSON UNLESS AT THE TIME OF SALE,  
15 DELIVERY, LEASE, OR TRANSFER SUCH FIREARM, RIFLE, OR SHOTGUN IS ACCOMPA-  
16 NIED BY THE FOLLOWING WARNING, WHICH SHALL APPEAR IN CONSPICUOUS AND  
17 LEGIBLE TYPE IN CAPITAL LETTERS, AND WHICH SHALL BE PRINTED ON A LABEL  
18 AFFIXED TO SUCH FIREARM, RIFLE, OR SHOTGUN AND PLACED IN THE CONTAINER  
19 IN WHICH SUCH FIREARM, RIFLE, OR SHOTGUN IS SOLD, DELIVERED, LEASED OR  
20 TRANSFERRED: "THE USE OF A LOCKING DEVICE OR SAFETY LOCK IS ONLY ONE  
21 ASPECT OF RESPONSIBLE FIREARM STORAGE. FIREARMS SHOULD BE STORED AND  
22 LOCKED IN A LOCATION THAT IS BOTH SEPARATE FROM THEIR AMMUNITION AND  
23 INACCESSIBLE TO CHILDREN AND OTHER UNAUTHORIZED PERSONS. MORE THAN  
24 200,000 FIREARMS LIKE THIS ONE ARE STOLEN FROM THEIR OWNERS EVERY YEAR  
25 IN THE UNITED STATES. IN ADDITION, THERE ARE MORE THAN A THOUSAND  
26 SUICIDES EACH YEAR BY YOUNGER CHILDREN AND TEENAGERS WHO GET ACCESS TO  
27 FIREARMS. HUNDREDS MORE DIE FROM ACCIDENTAL DISCHARGE. IT IS LIKELY THAT  
28 MANY MORE CHILDREN SUSTAIN SERIOUS WOUNDS, OR INFLICT SUCH WOUNDS ACCI-  
29 DENTALLY ON OTHERS. IN ORDER TO LIMIT THE CHANCE OF SUCH MISUSE, IT IS  
30 IMPERATIVE THAT YOU KEEP THIS WEAPON LOCKED IN A SECURE PLACE AND TAKE  
31 OTHER STEPS NECESSARY TO LIMIT THE POSSIBILITY OF THEFT OR ACCIDENT.  
32 FAILURE TO TAKE REASONABLE PREVENTIVE STEPS MAY RESULT IN INNOCENT LIVES  
33 BEING LOST, AND IN SOME CIRCUMSTANCES MAY RESULT IN YOUR LIABILITY."

34 S 908. MAINTENANCE OF RECORDS. EVERY DEALER SHALL ESTABLISH AND MAIN-  
35 TAIN SUCH PURCHASE, SALE, INVENTORY, AND OTHER RECORDS AT THE DEALER'S  
36 PLACE OF BUSINESS IN SUCH FORM AND FOR SUCH PERIOD AS THE SUPERINTENDENT  
37 SHALL REQUIRE, AND SHALL AT A MINIMUM INCLUDE THE FOLLOWING:

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

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

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

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

1 S 909. COOPERATION WITH LAW ENFORCEMENT. EVERY DEALER SHALL:

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

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

8 3. REPORT ALL ATF TRACE REQUESTS BY MAKE, MODEL, AND SERIAL NUMBER OF  
9 FIREARM, DATE OF TRACE, AND DATE OF SALE TO THE MANUFACTURER OF THE  
10 FIREARM, RIFLE, OR SHOTGUN ON A MONTHLY BASIS, UNLESS ATF DIRECTS THE  
11 LICENSEE NOT TO REPORT CERTAIN TRACES, AND ALSO REPORT SUCH TRACES TO  
12 THE SUPERINTENDENT FOR USE IN CONJUNCTION WITH THE CRIMINAL GUN CLEAR-  
13 INGHOUSE ESTABLISHED PURSUANT TO SECTION TWO HUNDRED THIRTY OF THE EXEC-  
14 UTIVE LAW;

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

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

23 S 910. INTERNAL COMPLIANCE AND CERTIFICATION. 1. EVERY DEALER SHALL:

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

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

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

38 S 911. RULES AND REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE SUCH  
39 ADDITIONAL RULES AND REGULATIONS AS THE SUPERINTENDENT SHALL DEEM NECES-  
40 SARY TO PREVENT FIREARMS, RIFLES, AND SHOTGUNS FROM BEING DIVERTED FROM  
41 THE LEGAL STREAM OF COMMERCE.

42 S 912. VIOLATIONS. ANY PERSON, FIRM, OR CORPORATION WHO KNOWINGLY  
43 VIOLATES ANY PROVISION OF THIS ARTICLE SHALL BE GUILTY OF A CLASS A  
44 MISDEMEANOR PUNISHABLE AS PROVIDED FOR IN THE PENAL LAW, AND SHALL BE  
45 GUILTY OF A CLASS E FELONY FOR A SECOND VIOLATION OCCURRING WITHIN FIVE  
46 YEARS OF A PRIOR CONVICTION FOR A VIOLATION OF ANY PROVISION OF THIS  
47 ARTICLE.

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

50 (1) No person, firm or corporation engaged in the retail business of  
51 selling rifles, shotguns or firearms, as such terms are defined in  
52 section 265.00 of the penal law, shall sell, deliver or transfer any  
53 such rifle, shotgun or firearm to another person unless the transferee  
54 is provided at the time of sale, delivery or transfer with a gun locking  
55 device and a label containing the quoted language specified in subdivi-  
56 sion two of [this] section [is either] NINE HUNDRED SEVEN OF THIS CHAP-

1 TER, WHICH SHALL APPEAR IN CONSPICUOUS AND LEGIBLE TYPE IN CAPITAL  
2 LETTERS, AND SHALL BE affixed to such rifle, shotgun or firearm [or] AND  
3 placed in the container in which such rifle, shotgun or firearm is sold,  
4 delivered or transferred. For the purposes of this section, the term  
5 "gun locking device" shall mean an integrated design feature or an  
6 attachable accessory that is resistant to tampering and is effective in  
7 preventing the discharge of such rifle, shotgun or firearm by a person  
8 who does not have access to the key, combination or other mechanism used  
9 to disengage the device. The division of state police shall develop and  
10 promulgate rules and regulations setting forth the specific devices or  
11 the minimum standards and criteria therefor which constitute an effec-  
12 tive gun locking device.

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

15 1. Eligibility. No license shall be issued or renewed pursuant to this  
16 section except by the licensing officer, and then only after investi-  
17 gation and finding that all statements in a proper application for a  
18 license are true. No license shall be issued or renewed except for an  
19 applicant (a) twenty-one years of age or older, provided, however, that  
20 where such applicant has been honorably discharged from the United  
21 States army, navy, marine corps, air force or coast guard, or the  
22 national guard of the state of New York, no such age restriction shall  
23 apply; (b) of good moral character; (c) who has not been convicted  
24 anywhere of a felony or a serious offense; (d) who has stated whether he  
25 or she has ever suffered any mental illness or been confined to any  
26 hospital or institution, public or private, for mental illness; (e) who  
27 has not had a license revoked or who is not under a suspension or inel-  
28 igibility order issued pursuant to the provisions of section 530.14 of  
29 the criminal procedure law or section eight hundred forty-two-a of the  
30 family court act; (f) in the county of Westchester, who has successfully  
31 completed a firearms safety course and test as evidenced by a certif-  
32 icate of completion issued in his or her name and endorsed and affirmed  
33 under the penalties of perjury by a duly authorized instructor, except  
34 that: (i) persons who are honorably discharged from the United States  
35 army, navy, marine corps or coast guard, or of the national guard of the  
36 state of New York, and produce evidence of official qualification in  
37 firearms during the term of service are not required to have completed  
38 those hours of a firearms safety course pertaining to the safe use,  
39 carrying, possession, maintenance and storage of a firearm; and (ii)  
40 persons who were licensed to possess a pistol or revolver prior to the  
41 effective date of this paragraph are not required to have completed a  
42 firearms safety course and test; and (g) concerning whom no good cause  
43 exists for the denial of the license. No person shall engage in the  
44 business of gunsmith or dealer in firearms unless licensed pursuant to  
45 this section, AND NO PERSON SHALL ENGAGE IN THE BUSINESS OF DEALER IN  
46 FIREARMS UNLESS SUCH PERSON COMPLIES WITH THE PROVISIONS OF ARTICLES  
47 THIRTY-NINE-DD AND FORTY OF THE GENERAL BUSINESS LAW. An applicant to  
48 engage in such business shall also be a citizen of the United States,  
49 more than twenty-one years of age and maintain a place of business in  
50 the city or county where the license is issued. For such business, if  
51 the applicant is a firm or partnership, each member thereof shall comply  
52 with all of the requirements set forth in this subdivision and if the  
53 applicant is a corporation, each officer thereof shall so comply.

54 S 5. Subdivisions 11 and 12 of section 400.00 of the penal law, subdi-  
55 vision 11 as amended by chapter 210 of the laws of 1999 and subdivision

1 12 as amended by chapter 449 of the laws of 1993, are amended to read as  
2 follows:

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

21 12. Records required of gunsmiths and dealers in firearms. [Any] IN  
22 ADDITION TO THE REQUIREMENTS SET FORTH IN ARTICLES THIRTY-NINE-DD AND  
23 FORTY OF THE GENERAL BUSINESS LAW, ANY person licensed as gunsmith or  
24 dealer in firearms shall keep a record book approved as to form, except  
25 in the city of New York, by the superintendent of state police. In the  
26 record book shall be entered at the time of every transaction involving  
27 a firearm the date, name, age, occupation and residence of any person  
28 from whom a firearm is received or to whom a firearm is delivered, and  
29 the calibre, make, model, manufacturer's name and serial number, or if  
30 none, any other distinguishing number or identification mark on such  
31 firearm. Before delivering a firearm to any person, the licensee shall  
32 require him to produce either a license valid under this section to  
33 carry or possess the same, or proof of lawful authority as an exempt  
34 person pursuant to section 265.20 OF THIS CHAPTER. In addition, before  
35 delivering a firearm to a peace officer, the licensee shall verify that  
36 person's status as a peace officer with the division of state police.  
37 After completing the foregoing, the licensee shall remove and retain the  
38 attached coupon and enter in the record book the date of such license,  
39 number, if any, and name of the licensing officer, in the case of the  
40 holder of a license to carry or possess, or the shield or other number,  
41 if any, assignment and department, unit or agency, in the case of an  
42 exempt person. The original transaction report shall be forwarded to the  
43 division of state police within ten days of delivering a firearm to any  
44 person, and a duplicate copy shall be kept by the licensee. The record  
45 book shall be maintained on the premises mentioned and described in the  
46 license and shall be open at all reasonable hours for inspection by any  
47 peace officer, acting pursuant to his special duties, or police officer.  
48 In the event of cancellation or revocation of the license for gunsmith  
49 or dealer in firearms, or discontinuance of business by a licensee, such  
50 record book shall be immediately surrendered to the licensing officer in  
51 the city of New York, and in the counties of Nassau and Suffolk, and  
52 elsewhere in the state to the executive department, division of state  
53 police.

54 S 6. Severability. If any clause, sentence, paragraph, section or part  
55 of this act shall be adjudged by any court of competent jurisdiction to  
56 be invalid, such judgment shall not affect, impair or invalidate the



1 remainder thereof, but shall be confined in its operation to the clause,  
2 sentence, paragraph, section or part thereof directly involved in the  
3 controversy in which such judgment shall have been rendered.

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