

4025

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. CAMARA, GOTTFRIED, JAFFEE, MAISEL, ROBINSON, COLTON, COOK, CASTRO, PEOPLES-STOKES -- Multi-Sponsored by -- M. of A. V. LOPEZ, MAYERSOHN, PHEFFER, J. RIVERA, SALADINO, TITONE, TOWNS, 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:

- 1 Section 1. Section 396-ff of the general business law, as added by
2 chapter 189 of the laws of 2000, is amended to read as follows:
3 S 396-ff. [Pistol and revolver] FIREARM ballistic identification data-
4 bank. (1) For the purposes of this section, the following terms shall
5 have the following meanings:
6 (a) "Manufacturer" means any person, firm or corporation possessing a
7 valid federal license that permits such person, firm or corporation to
8 engage in the business of manufacturing [pistols or revolvers] FIREARMS
9 or ammunition therefor for the purpose of sale or distribution.
10 (b) "Shell casing" means that part of ammunition capable of being used
11 in a [pistol or revolver] FIREARM that contains the primer and propel-
12 lant powder to discharge the bullet or projectile.
13 (C) "FIREARM" MEANS A PISTOL, REVOLVER, OR ASSAULT WEAPON AS DEFINED
14 IN SECTION 265.00 OF THE PENAL LAW, RIFLE, OR OTHER LONG-BARRELED WEAP-
15 ON.
16 (2) [On and after March first, two thousand one, any] ANY manufacturer
17 that ships, transports or delivers a [pistol or revolver] FIREARM to any
18 person in this state shall, in accordance with rules and regulations
19 promulgated by the division of state police, include in the container
20 with such [pistol or revolver] FIREARM a separate sealed container that
21 encloses:
22 (a) a shell casing of a bullet or projectile discharged from such
23 [pistol or revolver] FIREARM; and

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

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1 (b) any additional information that identifies such [pistol or revol-
2 ver] FIREARM and shell casing as required by such rules and regulations.

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

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

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

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

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

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

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

42 (7) Any person, firm or corporation who knowingly violates any of the
43 provisions of this section shall be guilty of a violation, punishable as
44 provided in the penal law. Any person, firm or corporation who knowingly
45 violates any of the provisions of this section after having been previ-
46 ously convicted of a violation of this section shall be guilty of a
47 class A misdemeanor, punishable as provided in the penal law.

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