

6854

2011-2012 Regular Sessions

I N A S S E M B L Y

April 5, 2011

Introduced by M. of A. COLTON, SCARBOROUGH, STEVENSON, ROBERTS -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to liability for the manufacture, sale, leasing or other disposition of ammunition feeding devices and compensation for damages

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

1 Section 1. The general obligations law is amended by adding a new
2 section 11-108 to read as follows:
3 S 11-108. LIABILITY FOR MANUFACTURE, SALE, LEASING OR OTHER DISPOSI-
4 TION OF AMMUNITION FEEDING DEVICES. 1. AS USED IN THIS SECTION THE TERM:
5 (A) "LARGE CAPACITY AMMUNITION FEEDING DEVICE" SHALL MEAN MAGAZINES,
6 BELTS, FEEDSTRIPS, DRUMS, CLIPS, OR SIMILAR DEVICES CAPABLE OF BEING
7 ATTACHED TO OR UTILIZED WITH A RIFLE, SHOTGUN OR PISTOL AS DEFINED IN
8 SECTION 265.00 OF THE PENAL LAW AND WHICH, IN THE CASE OF A RIFLE OR
9 SHOTGUN, HAS THE CAPACITY OF, OR CAN BE READILY RESTORED OR CONVERTED TO
10 ACCEPT, MORE THAN FIVE CARTRIDGES, OR IN THE CASE OF A PISTOL HAS THE
11 CAPACITY OF, OR CAN BE READILY RESTORED OR CONVERTED TO ACCEPT, MORE
12 THAN FIFTEEN CARTRIDGES. THE TERM SHALL ALSO INCLUDE ANY COMBINATION OF
13 PARTS FROM WHICH SUCH DEVICES CAN BE ASSEMBLED;
14 (B) "MANUFACTURER" SHALL MEAN ANY PERSON, CORPORATION, FIRM, PARTNER-
15 SHIP OR OTHER ENTITY THAT MANUFACTURES LARGE CAPACITY AMMUNITION FEEDING
16 DEVICES; AND
17 (C) "DEALER" SHALL MEAN ANY PERSON, CORPORATION, FIRM, PARTNERSHIP OR
18 OTHER ENTITY THAT SELLS, LEASES OR IN ANY MANNER DISPOSES OF A LARGE
19 CAPACITY AMMUNITION FEEDING DEVICE.
20 2. A MANUFACTURER OR DEALER MAY BE HELD STRICTLY LIABLE IN TORT, WITH-
21 OUT REGARD TO FAULT OR PROOF OF DEFECT, FOR ALL DIRECT AND CONSEQUENTIAL
22 DAMAGES TO ANY PERSON INJURED IN PERSON, PROPERTY OR MEANS OF SUPPORT,
23 OR KILLED, IF THE INJURY OR DEATH PROXIMATELY RESULTS FROM THE ILLEGAL
24 DISCHARGE OF A FIREARM TO WHICH A LARGE CAPACITY AMMUNITION FEEDING

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

LBD09668-01-1

1 DEVICE WAS AFFIXED THERETO AND UTILIZED. IN CASE OF THE DEATH OF EITHER
2 PARTY, THE LIABILITY ESTABLISHED HEREIN SHALL SURVIVE TO OR AGAINST HIS
3 OR HER EXECUTOR OR ADMINISTRATOR, AND THE AMOUNT SO RECOVERED BY EITHER
4 SPOUSE OR CHILD SHALL BE HIS OR HER SOLE AND SEPARATE PROPERTY.

5 3. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION TWO OF THIS SECTION,
6 THERE SHALL BE NO BASIS FOR LIABILITY UNDER THIS SECTION IF:

7 (A) THE INDIVIDUAL INJURED OR KILLED WAS ENGAGED IN A CRIMINAL ACT AT
8 THE TIME OF HIS OR HER INJURY OR DEATH;

9 (B) THE MANUFACTURER OR DEALER SOLD, LEASED, OR OTHERWISE DISPOSED OF
10 THE LARGE CAPACITY AMMUNITION FEEDING DEVICE TO A PERSON OR ENTITY WHO
11 WAS:

12 (I) A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, WHEN POSSESSION
13 IS AUTHORIZED BY LAW OR REGULATION;

14 (II) AN EMPLOYEE OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT AGENCY
15 OR OTHER MEMBERS OF THE CRIMINAL JUSTICE SYSTEM, WHEN POSSESSION IS
16 AUTHORIZED BY LAW OR REGULATION.

17 (C) THE INDIVIDUAL WHO DISCHARGED THE FIREARM TO WHICH A LARGE CAPACI-
18 TY AMMUNITION FEEDING DEVICE WAS AFFIXED THERETO AND UTILIZED:

19 (I) IS A MEMBER OF THE ARMED FORCES OF THE UNITED STATES, WHOSE
20 POSSESSION IS AUTHORIZED BY LAW OR REGULATION;

21 (II) IS AN EMPLOYEE OF A FEDERAL, STATE, OR LOCAL LAW ENFORCEMENT
22 AGENCY OR OTHER MEMBER OF THE CRIMINAL JUSTICE SYSTEM, WHOSE POSSESSION
23 IS AUTHORIZED BY LAW OR REGULATION.

24 4. ANY DEFENSE THAT IS AVAILABLE IN A STRICT LIABILITY TORT ACTION
25 SHALL BE AVAILABLE AS A DEFENSE UNDER THIS SECTION.

26 5. THIS SECTION SHALL NOT OPERATE TO LIMIT IN SCOPE ANY CAUSE OF
27 ACTION, OTHER THAN THAT PROVIDED BY THIS SECTION, AVAILABLE TO A PERSON
28 INJURED IN PERSON, PROPERTY OR MEANS OF SUPPORT OR KILLED BY A FIREARM.

29 S 2. This act shall take effect on the first of January next succeed-
30 ing the date on which it shall have become a law and shall apply to any
31 cause of action which accrues on or after such date.