

4348

2011-2012 Regular Sessions

I N S E N A T E

March 30, 2011

Introduced by Sen. ESPAILLAT -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the sale of a rifle or a shotgun between unlicensed persons and providing penalties

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

1 Section 1. The general business law is amended by adding a new section
2 396-eee to read as follows:
3 S 396-EEE. SALE OF CERTAIN WEAPONS BETWEEN UNLICENSED PERSONS. 1. THE
4 SALE OF RIFLES OR SHOTGUNS, AS SUCH TERMS ARE DEFINED IN SECTION 265.00
5 OF THE PENAL LAW, BETWEEN TWO OR MORE UNLICENSED PERSONS SHALL BE
6 CONDUCTED THROUGH A FEDERALLY LICENSED FIREARMS DEALER AND SHALL COMPLY
7 WITH APPLICABLE FEDERAL AND STATE LAWS. A PERSON SHALL COMPLETE ANY SALE
8 OF A RIFLE OR SHOTGUN THROUGH A PERSON LICENSED PURSUANT TO SECTION
9 400.00 OF THE PENAL LAW IN ACCORDANCE WITH THIS SECTION. THE SELLER OF
10 THE RIFLE OR SHOTGUN SHALL DELIVER THE RIFLE OR SHOTGUN TO THE DEALER
11 WHO SHALL RETAIN POSSESSION OF THAT RIFLE OR SHOTGUN. THE DEALER SHALL
12 THEN DELIVER THE RIFLE OR SHOTGUN TO THE PURCHASER OF THE RIFLE OR SHOT-
13 GUN, IF IT IS NOT PROHIBITED BY ANY PROVISION OF LAW. IF THE DEALER
14 CANNOT LEGALLY DELIVER THE RIFLE OR SHOTGUN TO THE PURCHASER OF THE
15 RIFLE OR SHOTGUN, THE DEALER SHALL FORTHWITH, WITHOUT WAITING FOR THE
16 CONCLUSION OF ANY APPLICABLE WAITING PERIOD, RETURN THE RIFLE OR SHOTGUN
17 TO THE SELLER OF THE RIFLE OR SHOTGUN. THE DEALER SHALL NOT RETURN THE
18 RIFLE OR SHOTGUN TO THE SELLER OF THE RIFLE OR SHOTGUN WHEN TO DO SO
19 WOULD CONSTITUTE A VIOLATION OF THE PENAL LAW. IF THE DEALER CANNOT
20 LEGALLY RETURN THE RIFLE OR SHOTGUN TO THE SELLER OF THE RIFLE OR SHOT-
21 GUN, THEN THE DEALER SHALL FORTHWITH DELIVER THE RIFLE OR SHOTGUN TO THE
22 SHERIFF OF THE COUNTY OR THE CHIEF OF POLICE OR OTHER HEAD OF A MUNICI-
23 PAL POLICE DEPARTMENT OF ANY CITY OR CITY AND COUNTY WHO SHALL THEN
24 DISPOSE OF THE FIREARM IN THE MANNER PROVIDED BY SUCH MUNICIPALITY. THE
25 FEDERALLY LICENSED FIREARMS DEALER MAY CHARGE A TRANSFER FEE NOT TO

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

LBD00325-01-1

1 EXCEED TEN DOLLARS. THIS SECTION DOES NOT APPLY TO THE SALE OF RIFLES OR
2 SHOTGUNS IN ANY OF THE FOLLOWING SITUATIONS:

3 A. THE PERSON SELLING THE RIFLE OR SHOTGUN OR THE PERSON PURCHASING
4 THE RIFLE OR SHOTGUN IS A LICENSED FIREARMS DEALER PURSUANT TO FEDERAL
5 LAW.

6 B. THE RIFLE OR SHOTGUN BOUGHT IS AN ANTIQUE RIFLE OR SHOTGUN, A
7 COLLECTOR'S ITEM, A DEVICE WHICH IS NOT DESIGNED OR REDESIGNED FOR USE
8 AS A RIFLE OR SHOTGUN, A DEVICE WHICH IS DESIGNED SOLELY FOR USE AS A
9 SIGNALING, PYROTECHNIC, LINE-THROWING, SAFETY OR SIMILAR DEVICE, OR A
10 RIFLE OR SHOTGUN WHICH IS UNSERVICEABLE BY REASON OF BEING UNABLE TO
11 DISCHARGE A SHOT BY MEANS OF AN EXPLOSIVE AND IS INCAPABLE OF BEING
12 READILY RESTORED TO A FIRING CONDITION.

13 C. THE PERSON PURCHASING THE RIFLE OR SHOTGUN IS AUTHORIZED TO DO SO
14 ON BEHALF OF A LAW ENFORCEMENT AGENCY.

15 D. THE PERSON PURCHASING THE RIFLE OR SHOTGUN FROM THE SELLER IS AN
16 IMMEDIATE FAMILY MEMBER OF SUCH PERSON, WHICH SHALL INCLUDE SPOUSE;
17 NATURAL AND ADOPTIVE PARENTS, CHILDREN AND SIBLINGS; STEPPARENTS, STEP-
18 CHILDREN AND STEPSIBLINGS; FATHERS-IN-LAW, MOTHERS-IN-LAW, BROTHERS-IN-
19 LAW, SISTERS-IN-LAW, SONS-IN-LAW AND DAUGHTERS-IN-LAW; AND GRANDPARENTS
20 AND GRANDCHILDREN.

21 2. AN UNLICENSED PERSON WHO SELLS A SHOTGUN OR RIFLE TO ANOTHER UNLI-
22 CENSED PERSON, OR AN UNLICENSED PERSON WHO PURCHASES A RIFLE OR SHOTGUN
23 FROM ANOTHER UNLICENSED PERSON, WITHOUT THE SALE CONDUCTED BY A FEDER-
24 ALLY LICENSED FIREARMS DEALER, SHALL BE GUILTY OF A CLASS A MISDEMEANOR
25 PURSUANT TO SECTION 265.17 OF THE PENAL LAW.

26 3. A PERSON WHO SELLS A RIFLE OR SHOTGUN TO ANOTHER PERSON, WHO THE
27 SELLER KNOWS OR HAS REASON TO KNOW IS PROHIBITED FROM POSSESSING
28 FIREARMS, RIFLES OR SHOTGUNS UNDER FEDERAL OR STATE LAW, SHALL BE GUILTY
29 OF A CLASS A MISDEMEANOR PURSUANT TO SECTION 265.17 OF THE PENAL LAW.

30 S 2. This act shall take effect on the first of November next succeed-
31 ing the date on which it shall have become a law and shall apply to
32 firearms sold on or after such date.