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

6037

I N S E N A T E

(PREFILED)

January 4, 2012

Introduced by Sens. MAZIARZ, DeFRANCISCO, JOHNSON, RANZENHOFER, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to gun buyback programs

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

Section 1. Subdivision 1 of section 400.05 of the penal law, as amended by chapter 350 of the laws of 1986, is amended and a new subdivision 7 is added to read as follows:

1. Any weapon, instrument, appliance or substance specified in article two hundred sixty-five OF THIS CHAPTER, when unlawfully possessed, manufactured, transported or disposed of, or when utilized in the commission of an offense, is hereby declared a nuisance. When the same shall come into the possession of any police officer or peace officer, it shall be surrendered immediately to the official mentioned in [paragraph] SUBPARAGRAPH (f) of [subdivision] PARAGRAPH one OF SUBDIVISION A of section 265.20 OF THIS CHAPTER, except that such weapon, instrument, appliance or substance coming into the possession of the state police shall be surrendered to the superintendent of state police.

7. (A) ANY PRIVATE OR GOVERNMENTAL ENTITY OPERATING A GUN BUYBACK PROGRAM SHALL:

(I) REQUIRE THAT THE SERIAL NUMBER OF EVERY FIREARM OBTAINED BY SUCH GUN BUYBACK PROGRAM IS CHECKED AGAINST THE NEW YORK STATEWIDE POLICE INFORMATION NETWORK (NYSPIN) RECORDS OF STOLEN FIREARMS AND, IF IT IS FOUND THAT ANY SUCH FIREARM IS A STOLEN FIREARM, THAT THE FIREARM IS NOT DESTROYED WITHOUT THE EXPRESS PERMISSION OF THE LAWFUL OWNER THEREOF AND THAT IF THE LAWFUL OWNER OF THE FIREARM DOES NOT GIVE EXPRESS PERMISSION FOR THE FIREARM TO BE DESTROYED, THAT THE FIREARM IS RETURNED TO ITS LAWFUL OWNER;

(II) PRIOR TO RETURNING A STOLEN FIREARM TO A LAWFUL OWNER, DETERMINE WHETHER OR NOT THE LAWFUL OWNER IS ELIGIBLE TO POSSESS A FIREARM UNDER THIS CHAPTER. IF THE LAWFUL OWNER OF THE FIREARM IS INELIGIBLE TO POSSESS A FIREARM UNDER THIS CHAPTER, THE ENTITY OPERATING THE GUN

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

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BUYBACK PROGRAM MAY DESTROY THE FIREARM IN COMPLIANCE WITH SUBDIVISION TWO OF THIS SECTION.

(B) FOR THE PURPOSES OF THIS SECTION, THE TERM "GUN BUYBACK PROGRAM" SHALL MEAN ANY PROGRAM IN WHICH FIREARMS, MACHINE-GUNS OR AMMUNITION ARE PURCHASED BY OR SURRENDERED TO THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE OR A MEMBER THEREOF DESIGNATED BY SUCH SUPERINTENDENT, OR TO A COUNTY SHERIFF, OR IN THE COUNTY OF NASSAU OR IN THE TOWNS OF BABYLON, BROOKHAVEN, HUNTINGTON, ISLIP AND SMITHTOWN IN THE COUNTY OF SUFFOLK TO THE COMMISSIONER OF POLICE OR A MEMBER OF THE POLICE DEPARTMENT THEREOF DESIGNATED BY SUCH COMMISSIONER, OR TO THE POLICE COMMISSIONER OR HEAD OF THE POLICE FORCE OR DEPARTMENT OF ANY CITY, TOWN OTHER THAN ONE NAMED IN THIS PARAGRAPH, OR VILLAGE THEREOF OR TO A MEMBER OF THE FORCE OR DEPARTMENT DESIGNATED BY SUCH COMMISSIONER OR HEAD.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.