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

6650

2013-2014 Regular Sessions

I N A S S E M B L Y

April 12, 2013

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the state finance law, in relation to establishing the municipal firearm recovery program and municipal firearm recovery fund

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

Section 1. The penal law is amended by adding a new section 400.15 to read as follows:

S 400.15 MUNICIPAL FIREARM RECOVERY PROGRAM.

1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "AGENCY" MEANS LOCAL MUNICIPAL POLICE DEPARTMENTS AND THE DIVISION OF STATE POLICE.

(B) "MFRP" MEANS MUNICIPAL FIREARM RECOVERY PROGRAM OR ANY RELATED GUN BUYBACK PROGRAM IMPLEMENTED BY MUNICIPAL POLICE DEPARTMENTS OR LOCAL COMMUNITY ORGANIZERS.

(C) "GUN BUYBACK PROGRAM" MEANS 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 COUNTIES OF NASSAU AND 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.

(D) "FIREARM" MEANS ANY FIREARM AS DEFINED IN SUBDIVISION THREE OF SECTION 265.00 OF THIS CHAPTER AND IS IN GOOD WORKING ORDER.

(E) "SUPERINTENDENT" MEANS THE SUPERINTENDENT OF THE DIVISION OF STATE POLICE.

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

LBD06293-02-3

(F) "SECRETARY" MEANS THE SECRETARY OF THE DEPARTMENT OF STATE.

(G) "ACTIVE LAW ENFORCEMENT OFFICER" MEANS ANY MEMBER CURRENTLY EMPLOYED IN LAW ENFORCEMENT OR WHO IS AUTHORIZED TO CARRY A FIREARM IN THE COURSE OF HIS OR HER EMPLOYMENT.

2. THE MUNICIPAL FIREARM RECOVERY PROGRAM ("MFRP") IS HEREBY ESTABLISHED AND SHALL BE IMPLEMENTED BY THE AGENCIES AS FUNDS ARE ALLOCATED THROUGH THE MUNICIPAL FIREARM RECOVERY FUND ESTABLISHED UNDER SECTION NINETY-SEVEN-CC OF THE STATE FINANCE LAW. THE AGENCY SHALL:

(A) IN COORDINATION WITH THE COMMUNITY GROUPS WITHIN ITS JURISDICTION, SELECT A LOCATION SITE FOR PURPOSES OF IMPLEMENTING A MFRP; AND

(B) DESIGNATE DATES AND TIMES WHEN A PARTICIPATING INDIVIDUAL MAY SURRENDER A FIREARM AS DEFINED IN PARAGRAPH (D) OF SUBDIVISION ONE OF THIS SECTION AND SUBDIVISION THREE OF SECTION 265.00 OF THIS CHAPTER IN EXCHANGE FOR FUNDS OF A PREDETERMINED VALUE ON A GIFT CERTIFICATE OR COUPON OF EQUAL VALUE AS DETERMINED BY THE AGENCY. THE PARTICIPATING AGENCY SHALL DETERMINE THE AMOUNTS TO BE EXCHANGED FOR EACH FIREARM SURRENDERED. THE GUN BUYBACK PROGRAM SHALL EXIST FOR NOT MORE THAN A SIXTY-DAY PERIOD IN ANY CALENDAR YEAR OR SHALL EXIST UNTIL THE FUNDS ACQUIRED OR RECEIVED FOR THE PURCHASE OF THE FIREARM ARE EXHAUSTED.

3. THE DIVISION OF STATE POLICE, IN CONJUNCTION WITH THE DEPARTMENT OF STATE SHALL ADMINISTER THIS PROGRAM AND PROMULGATE RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS PROGRAM. SUCH RULES SHALL INCLUDE, BUT NOT BE LIMITED TO:

(A) THE MANNER IN WHICH THE FUNDS WILL BE ALLOCATED AND DISTRIBUTED;

(B) PROVIDE GUIDELINES FOR THE SAFE STORAGE AND DISPOSAL OF RECOVERED WEAPONS IN THE POSSESSION OF THE PARTICIPATING AGENCY. FOR PURPOSES OF THIS SECTION, "DISPOSAL" SHALL ONLY INCLUDE THE DESTRUCTION OF THE FIREARMS, EXCEPT THAT, A STOLEN WEAPON SHALL BE RETURNED TO ITS RIGHTFUL OWNER ON PROOF OF OWNERSHIP, UNLESS THE LAWFUL OWNER OF THE FIREARM IS INELIGIBLE TO POSSESS A FIREARM UNDER APPLICABLE STATE LAWS, THE ENTITY OPERATING THE GUN BUYBACK PROGRAM SHALL DESTROY THE FIREARM IN COMPLIANCE WITH THIS SECTION. HOWEVER, IF IT IS DETERMINED THAT THE FIREARM WAS USED IN A CRIME AFTER A REVIEW UNDER PARAGRAPH (D) OF THIS SUBDIVISION, IT SHALL BE RETAINED FOR EVIDENCE;

(C) PROHIBIT ACTIVE LAW ENFORCEMENT OFFICERS, AS DEFINED IN PARAGRAPH (G) OF SUBDIVISION ONE OF THIS SECTION, FROM PARTICIPATING IN SUCH PROGRAM;

(D) 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; AND

(E) PROMULGATE RULES AND REGULATIONS NECESSARY TO SUCCESSFULLY RUN SUCH A PROGRAM.

4. ANY INDIVIDUAL WHO ELECTS TO SURRENDER A FIREARM ANONYMOUSLY TO A MFRP MAY DO SO AND PERSONAL IDENTIFICATION SHALL ONLY BE REQUIRED TO BE PRESENTED FOR PROOF OF RESIDENCY.

5. ANY PERSON PARTICIPATING IN A MFRP SHALL BE IMMUNE FROM CRIMINAL PROSECUTION FOR THE CRIMINAL OFFENSES ESTABLISHED BY SECTIONS 265.01, 265.02, 265.03, AND 265.05 OF THIS CHAPTER, PROVIDED THE PERSON IS, IN GOOD FAITH, ON AN IMMEDIATE, DIRECT ROUTE TO THE PREDETERMINED MFRP SITE.

S 2. The state finance law is amended by adding a new section 97-cc to read as follows:

S 97-CC. MUNICIPAL FIREARM RECOVERY FUND. 1. THERE IS HEREBY ESTABLISHED, IN THE JOINT CUSTODY OF THE SUPERINTENDENT OF STATE POLICE AND THE SECRETARY OF STATE A FUND TO BE KNOWN AS THE MUNICIPAL FIREARM RECOVERY FUND.

2. THE SUPERINTENDENT AND THE SECRETARY SHALL PROMULGATE RULES AND REGULATIONS FOR THE IMPLEMENTATION AND DISTRIBUTION OF THIS FUND AND SHALL SEEK MONIES FROM THE GENERAL FUND TO ASSIST MUNICIPALITIES IN THE FIREARM RECOVERY PROGRAM ESTABLISHED UNDER SECTION 400.15 OF THE PENAL LAW.

3. ADDITIONAL FUNDING MAY BE ACQUIRED BY MUNICIPALITIES THROUGH DONATIONS FROM PRIVATE BUSINESSES, CHARITIES AND INDIVIDUALS AND MAY BE ACQUIRED FROM THE MUNICIPALITY'S ASSETS, SEIZURES AND FORFEITURE FUND IF THE MUNICIPALITY POSSESSES SUCH FUND.

S 3. This act shall take effect on the one hundred eightieth day after 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 and completed on or before such effective date.