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

1572--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. PARKER, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

Section 1. The general business law is amended by adding a new section 396-ff to read as follows:

S 396-FF. FIREARM BALLISTIC IDENTIFICATION DATABANK. (1) FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "MANUFACTURER" MEANS ANY PERSON, FIRM OR CORPORATION POSSESSING A VALID FEDERAL LICENSE THAT PERMITS SUCH PERSON, FIRM OR CORPORATION TO ENGAGE IN THE BUSINESS OF MANUFACTURING FIREARMS OR AMMUNITION THEREFOR FOR THE PURPOSE OF SALE OR DISTRIBUTION.

(B) "SHELL CASING" MEANS THAT PART OF AMMUNITION CAPABLE OF BEING USED IN A FIREARM THAT CONTAINS THE PRIMER AND PROPELLANT POWDER TO DISCHARGE THE BULLET OR PROJECTILE.

(C) "FIREARM" MEANS A PISTOL, REVOLVER, OR ASSAULT WEAPON AS DEFINED IN SECTION 265.00 OF THE PENAL LAW, RIFLE, OR OTHER LONG-BARRELED WEAPON.

(2) ANY MANUFACTURER THAT SHIPS, TRANSPORTS OR DELIVERS A FIREARM TO ANY PERSON IN THIS STATE SHALL, IN ACCORDANCE WITH RULES AND REGULATIONS PROMULGATED BY THE DIVISION OF STATE POLICE, INCLUDE IN THE CONTAINER WITH SUCH FIREARM A SEPARATE SEALED CONTAINER THAT ENCLOSES:

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

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(A) A SHELL CASING OF A BULLET OR PROJECTILE DISCHARGED FROM SUCH FIREARM; AND

(B) ANY ADDITIONAL INFORMATION THAT IDENTIFIES SUCH FIREARM AND SHELL CASING AS REQUIRED BY SUCH RULES AND REGULATIONS.

(3) A GUNSMITH OR DEALER IN FIREARMS LICENSED IN THIS STATE SHALL, WITHIN TEN DAYS OF THE RECEIPT OF ANY FIREARM FROM A MANUFACTURER THAT FAILS TO COMPLY WITH THE PROVISIONS OF THIS SECTION, EITHER (A) RETURN SUCH FIREARM TO SUCH MANUFACTURER, OR (B) NOTIFY THE DIVISION OF STATE POLICE OF SUCH NONCOMPLIANCE AND THEREAFTER OBTAIN A SUBSTITUTE SEALED CONTAINER THROUGH PARTICIPATION IN A PROGRAM OPERATED BY THE STATE POLICE AS PROVIDED IN SUBDIVISION FOUR OF THIS SECTION.

(4) THE DIVISION OF STATE POLICE SHALL NO LATER THAN OCTOBER FIRST, TWO THOUSAND FOURTEEN, PROMULGATE RULES AND REGULATIONS FOR THE OPERATION OF A PROGRAM WHICH PROVIDES A GUNSMITH OR A DEALER IN FIREARMS LICENSED IN THIS STATE WITH A SEALED CONTAINER ENCLOSING THE ITEMS SPECIFIED IN SUBDIVISION TWO OF THIS SECTION. THE PROGRAM SHALL AT A MINIMUM:

(A) BE OPERATIONAL BY JANUARY FIRST, TWO THOUSAND FIFTEEN;

(B) OPERATE IN AT LEAST FIVE REGIONAL LOCATIONS WITHIN THE STATE; AND

(C) SPECIFY PROCEDURES BY WHICH SUCH GUNSMITH OR DEALER IS TO DELIVER A FIREARM TO THE REGIONAL PROGRAM LOCATION CLOSEST TO HIS OR HER PLACE OF BUSINESS FOR TESTING AND PROMPT RETURN OF SUCH FIREARM.

(5) A GUNSMITH OR DEALER IN FIREARMS LICENSED IN THIS STATE SHALL, WITHIN TEN DAYS OF DELIVERING TO ANY PERSON A FIREARM RECEIVED BY SUCH GUNSMITH OR DEALER IN FIREARMS, FORWARD TO THE DIVISION OF STATE POLICE, ALONG WITH THE ORIGINAL TRANSACTION REPORT REQUIRED BY SUBDIVISION TWELVE OF SECTION 400.00 OF THE PENAL LAW, THE SEALED CONTAINER ENCLOSING THE SHELL CASING FROM SUCH FIREARM EITHER (A) RECEIVED FROM THE MANUFACTURER, OR (B) OBTAINED THROUGH PARTICIPATION IN THE PROGRAM OPERATED BY THE DIVISION OF STATE POLICE IN ACCORDANCE WITH SUBDIVISION FOUR OF THIS SECTION.

(6) UPON RECEIPT OF THE SEALED CONTAINER, THE DIVISION OF STATE POLICE SHALL CAUSE TO BE ENTERED IN AN AUTOMATED ELECTRONIC DATABANK PERTINENT DATA AND OTHER BALLISTIC INFORMATION RELEVANT TO IDENTIFICATION OF THE SHELL CASING AND TO THE FIREARM FROM WHICH IT WAS DISCHARGED. THE AUTOMATED ELECTRONIC DATABANK WILL BE OPERATED AND MAINTAINED BY THE DIVISION OF STATE POLICE, IN ACCORDANCE WITH ITS RULES AND REGULATIONS ADOPTED AFTER CONSULTATION WITH THE FEDERAL BUREAU OF INVESTIGATION AND THE UNITED STATES DEPARTMENT OF JUSTICE, BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES TO ENSURE COMPATIBILITY WITH NATIONAL BALLISTIC TECHNOLOGY.

(7) ANY PERSON, FIRM OR CORPORATION WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF THIS SECTION SHALL BE GUILTY OF A VIOLATION, PUNISHABLE AS PROVIDED IN THE PENAL LAW. ANY PERSON, FIRM OR CORPORATION WHO KNOWINGLY VIOLATES ANY OF THE PROVISIONS OF THIS SECTION AFTER HAVING BEEN PREVIOUSLY CONVICTED OF A VIOLATION OF THIS SECTION SHALL BE GUILTY OF A CLASS A MISDEMEANOR, PUNISHABLE AS PROVIDED IN THE PENAL LAW.

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