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

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2015-2016 Regular Sessions

I N A S S E M B L Y

February 5, 2015

Introduced by M. of A. COLTON, SCARBOROUGH, 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:

Section 1. The general obligations law is amended by adding a new section 11-108 to read as follows:

S 11-108. LIABILITY FOR MANUFACTURE, SALE, LEASING OR OTHER DISPOSITION OF AMMUNITION FEEDING DEVICES. 1. AS USED IN THIS SECTION THE TERM:

(A) "LARGE CAPACITY AMMUNITION FEEDING DEVICE" SHALL MEAN MAGAZINES, BELTS, FEEDSTRIPS, DRUMS, CLIPS, OR SIMILAR DEVICES CAPABLE OF BEING ATTACHED TO OR UTILIZED WITH A RIFLE, SHOTGUN OR PISTOL AS DEFINED IN SECTION 265.00 OF THE PENAL LAW AND WHICH, IN THE CASE OF A RIFLE OR SHOTGUN, HAS THE CAPACITY OF, OR CAN BE READILY RESTORED OR CONVERTED TO ACCEPT, MORE THAN FIVE CARTRIDGES, OR IN THE CASE OF A PISTOL HAS THE CAPACITY OF, OR CAN BE READILY RESTORED OR CONVERTED TO ACCEPT, MORE THAN FIFTEEN CARTRIDGES. THE TERM SHALL ALSO INCLUDE ANY COMBINATION OF PARTS FROM WHICH SUCH DEVICES CAN BE ASSEMBLED;

(B) "MANUFACTURER" SHALL MEAN ANY PERSON, CORPORATION, FIRM, PARTNERSHIP OR OTHER ENTITY THAT MANUFACTURES LARGE CAPACITY AMMUNITION FEEDING DEVICES; AND

(C) "DEALER" SHALL MEAN ANY PERSON, CORPORATION, FIRM, PARTNERSHIP OR OTHER ENTITY THAT SELLS, LEASES OR IN ANY MANNER DISPOSES OF A LARGE CAPACITY AMMUNITION FEEDING DEVICE.

2. A MANUFACTURER OR DEALER MAY BE HELD STRICTLY LIABLE IN TORT, WITHOUT REGARD TO FAULT OR PROOF OF DEFECT, FOR ALL DIRECT AND CONSEQUENTIAL DAMAGES TO ANY PERSON INJURED IN PERSON, PROPERTY OR MEANS OF SUPPORT, OR KILLED, IF THE INJURY OR DEATH PROXIMATELY RESULTS FROM THE ILLEGAL 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.

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

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

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

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

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

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

(C) THE INDIVIDUAL WHO DISCHARGED THE FIREARM TO WHICH A LARGE CAPACITY AMMUNITION FEEDING DEVICE WAS AFFIXED THERETO AND UTILIZED:

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

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

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

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

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