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

6752

I N S E N A T E

February 16, 2016

Introduced by Sen. HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations

AN ACT to amend the tax law, in relation to establishing a special fee on firearms, rifles and shotguns; and to amend the state finance law, in relation to establishing the gun violence research fund

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

Section 1. The tax law is amended by adding a new article 28-C to read as follows:

ARTICLE 28-C

SPECIAL FEE ON FIREARMS, RIFLES AND SHOTGUNS

SECTION 1180. SPECIAL FEE ON FIREARMS, RIFLES AND SHOTGUNS.

S 1180. SPECIAL FEE ON FIREARMS, RIFLES AND SHOTGUNS. (A) FOR THE PURPOSES OF THIS SECTION THE TERMS "FIREARM", "RIFLE", AND "SHOTGUN" SHALL HAVE THE SAME MEANING AS DEFINED IN SECTION 265.00 OF THE PENAL LAW.

(B) (1) THERE IS HEREBY IMPOSED AND THERE SHALL BE PAID A FEE UPON THE RECEIPTS FROM EVERY RETAIL SALES OF, OR USE OF, EACH FIREARM, RIFLE, OR SHOTGUN. THE AMOUNT OF THE FEE SHALL BE FIVE DOLLARS FOR EACH FIREARM, RIFLE, OR SHOTGUN PURCHASED.

(2)(I) SUCH FEE SHALL BE COLLECTED BY THE VENDOR OF THE FIREARM, RIFLE, OR SHOTGUN FROM THE PURCHASER OF THE FIREARM, RIFLE, OR SHOTGUN.

(II) WHERE THE FEE IMPOSED UNDER PARAGRAPH ONE OF THIS SUBDIVISION IS NOT REQUIRED TO BE COLLECTED BY THE VENDOR UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE PURCHASER OF SUCH FIREARM, RIFLE, OR SHOTGUN SHALL REMIT SUCH FEE DIRECTLY TO THE COMMISSIONER.

(3) (I) EVERY PERSON REQUIRED TO COLLECT THE FEE UNDER SUBPARAGRAPH (I) OF PARAGRAPH TWO OF THIS SUBDIVISION SHALL FILE A RETURN AND PAY THE FEE REQUIRED TO BE COLLECTED TO THE COMMISSIONER ON OR BEFORE THE TWENTIETH DAY AFTER THE CLOSE OF THE QUARTERLY PERIOD IN WHICH THE FIREARM, RIFLE, OR SHOTGUN WAS PURCHASED, AS SUCH PERIOD IS DESCRIBED IN SUBDIVISION (B) OF SECTION ELEVEN HUNDRED THIRTY-SIX OF THIS CHAPTER.

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

LBD13570-07-6

(II) A PURCHASER SUBJECT TO SUBPARAGRAPH (I) OF PARAGRAPH TWO OF THIS SUBDIVISION SHALL FILE A RETURN AND PAY THE FEE REQUIRED TO BE PAID WITHIN TWENTY DAYS AFTER THE CLOSE OF SUCH QUARTERLY PERIOD IN WHICH A FIREARM, RIFLE, OR SHOTGUN SUBJECT TO THE FEE WAS PURCHASED.

(4) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A PERSON DESCRIBED IN PARAGRAPH ONE, TWO OR THREE OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SIXTEEN OF THIS CHAPTER, AND ANY BONA FIDE VETERANS ORGANIZATIONS RECEIVING FIREARMS, RIFLES, OR SHOTGUNS FOR THE SOLE USE OF CEREMONIAL PURPOSE WITH BLANK AMMUNITION, EXEMPT FROM THE TAXES IMPOSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER PURSUANT TO PARAGRAPH FOUR OF SUBDIVISION (A) OF SECTION ELEVEN HUNDRED SIXTEEN OF THIS CHAPTER, SHALL NOT BE SUBJECT TO THE FEE IMPOSED UNDER THIS SECTION.

(C) THE FEE IMPOSED BY THIS SECTION SHALL BE ADMINISTERED AND COLLECTED IN A LIKE MANNER AS THE TAXES IMPOSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER, AND THE DEFINITIONS AND THE PROVISIONS APPLICABLE TO THE ADMINISTRATION, COLLECTION, DETERMINATION, ENFORCEMENT, AND DISPOSITION OF THE TAXES IMPOSED BY ARTICLE TWENTY-EIGHT OF THIS CHAPTER SHALL APPLY TO THE FEE IMPOSED BY THIS SECTION INSOFAR AS SUCH PROVISIONS CAN BE MADE APPLICABLE TO SUCH FEE WITH THE LIMITATIONS SET FORTH HEREIN AND SUCH MODIFICATIONS AS MAY BE NECESSARY IN ORDER TO ADAPT SUCH PROVISIONS TO THE FEE IMPOSED. SUCH PROVISIONS SHALL APPLY WITH THE SAME FORCE AND EFFECT AS IF THE LANGUAGE OF SUCH PROVISIONS HAD BEEN SET FORTH IN FULL IN THIS SECTION AND HAD BEEN EXPRESSLY REFERRED TO THE FEE IMPOSED BY THIS SECTION EXCEPT TO THE EXTENT THAT ANY OF SUCH PROVISIONS IS EITHER INCONSISTENT WITH OR IS NOT RELEVANT TO THIS SECTION. PROVIDED, HOWEVER, ANY REFERENCE IN THIS ARTICLE TO THE TERM "TAX" SHALL BE READ AS "FEE" AND THE EXEMPTION PROVISIONS IN PART THREE OF ARTICLE TWENTY-EIGHT OF THIS CHAPTER SHALL NOT APPLY EXCEPT AS PROVIDED IN PARAGRAPH FOUR OF SUBDIVISION (B) OF THIS SECTION. EVERY PERSON REQUIRED TO COLLECT OR PAY THE FEE PROVIDED FOR IN THIS SECTION SHALL KEEP SUCH RECORDS AS MAY BE REQUIRED BY THE COMMISSIONER.

(D) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, ALL REVENUES PURSUANT TO THIS SECTION SHALL BE CREDITED TO THE GUN VIOLENCE RESEARCH FUND AND USED ONLY FOR THESE PURPOSES ENUMERATED IN SECTION EIGHTY-SIX OF THE STATE FIANCEE LAW.

S 2. The state finance law is amended by adding a new section 86 to read as follows:

S 86. GUN VIOLENCE RESEARCH FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "GUN VIOLENCE RESEARCH FUND".

2. SUCH FUNDS SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF SECTION ELEVEN HUNDRED EIGHTY OF THE TAX LAW AND ALL OTHER MONIES APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW. NOTHING CONTAINED HEREIN SHALL PREVENT THE STATE FROM RECEIVING GRANTS, GIFTS OR BEQUESTS FOR THE PURPOSES OF THE FUND AS DEFINED IN THIS SECTION AND DEPOSITING THEM INTO THE FUND ACCORDING TO LAW.

3. (A) MONIES OF THE FUND, SHALL BE EXPENDED TO THE DEPARTMENT OF HEALTH AND THE STATE UNIVERSITY OF NEW YORK FOR GUN VIOLENCE RESEARCH. THE DEPARTMENT OF HEALTH AND THE STATE UNIVERSITY OF NEW YORK SHALL PROVIDE GRANTS FOR THE PURPOSE OF ADVANCING AND FINANCING GUN VIOLENCE RESEARCH.

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE HUNDRED SIXTY-THREE OF THIS CHAPTER, THE COMMISSIONER OF HEALTH AND THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK ARE AUTHORIZED TO ENTER INTO A

CONTRACT OR CONTRACTS UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(I) THE DEPARTMENT OF HEALTH AND THE STATE UNIVERSITY OF NEW YORK SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

(1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO THE CONTRACTOR OR CONTRACTORS;

(2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS IN A TIMELY FASHION SHALL BE REVIEWED BY THE COMMISSIONER OF HEALTH AND THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK; AND

(III) THE COMMISSIONER OF HEALTH AND THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN THEIR DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

4. (A) ON OF BEFORE THE FIRST DAY OF FEBRUARY EACH YEAR, THE COMPTROLLER SHALL CERTIFY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE AMOUNT OF MONEY DEPOSITED BY EACH SOURCE IN THE NEW YORK STATE GUN VIOLENCE RESEARCH FUND DURING THE PRECEDING CALENDAR YEAR AS THE RESULT OF REVENUE DERIVED PURSUANT TO SECTION ELEVEN HUNDRED EIGHTY OF THE TAX LAW AND FROM ALL OTHER SOURCES.

(B) ON OR BEFORE THE FIRST DAY OF FEBRUARY EACH YEAR, THE COMMISSIONER OF HEALTH IN COORDINATION WITH THE CHANCELLOR OF THE STATE UNIVERSITY OF NEW YORK SHALL PROVIDE A WRITTEN REPORT TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIR OF THE SENATE COMMITTEE ON HEALTH, THE CHAIR OF THE ASSEMBLY HEALTH COMMITTEE, THE STATE COMPTROLLER AND THE PUBLIC. SUCH REPORT SHALL INCLUDE HOW MONIES OF THE FUND WERE UTILIZED DURING THE PRECEDING CALENDAR YEAR AND SHALL INCLUDE:

(I) THE AMOUNT OF MONEY DISBURSED FROM THE FUND AND THE AWARD PROCESS USED FOR SUCH DISBURSEMENTS;

(II) RECIPIENTS OF AWARDS FROM THE FUND;

(III) THE AMOUNT AWARDED TO EACH;

(IV) THE PURPOSES FOR WHICH SUCH AWARDS WERE GRANTED; AND

(V) A SUMMARY FINANCIAL PLAN FOR SUCH MONIES WHICH SHALL INCLUDE ESTIMATES OF ALL RECEIPTS AND ALL DISBURSEMENTS FOR THE CURRENT AND SUCCEEDING FISCAL YEARS, ALONG WITH THE ACTUAL RESULTS FROM THE PRIOR FISCAL YEAR.

5. MONIES SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED BY THE COMPTROLLER.

6. CONTRACTORS AWARDED GRANTS FROM FUNDS DISBURSED FROM THIS SECTION FOR THE PURPOSE OF GUN VIOLENCE RESEARCH SHALL, WHEN THEIR RESEARCH HAS CONCLUDED, PROVIDE A WRITTEN REPORT OF THEIR FINDINGS TO THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIR OF THE SENATE COMMITTEE ON HEALTH, THE CHAIR OF THE ASSEMBLY HEALTH COMMITTEE, THE STATE COMPTROLLER AND THE PUBLIC.

S 3. This act shall take effect immediately and shall apply to taxable years, beginning on or after January 1, 2016; provided, however, section one of this act shall take effect June 1, 2016 and shall apply in accordance with the applicable transitional provisions in sections 1106 and 1217 of the tax law. This act shall be deemed repealed in the event that congress authorizes funding for gun violence research to the centers for disease control and prevention; provided that the comptroller shall notify the legislative bill drafting commission upon the occurrence of such enactment by the congress in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.