

STATE OF NEW YORK

11339

IN ASSEMBLY

September 19, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Ortiz) --
read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to the assembly of firearms;
and to amend the state finance law, in relation to the creation of the
dealers' record of sale account and the gun violence family relief
fund

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

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

3 § 400.15 Assembly of firearms.

4 1. As used in this section, "manufacturing" or "assembling" a firearm
5 means to fabricate or construct a firearm, or to fit together the compo-
6 nent parts of a firearm to construct a firearm.

7 2. (a) A person shall apply to the division of state police for a
8 unique serial number or other mark of identification pursuant to subdi-
9 vision three of this section prior to manufacturing or assembling a
10 firearm.

11 (b) Within one day of manufacturing or assembling a firearm, such
12 person shall engrave or permanently affix the unique serial number or
13 other mark of identification provided by the division of state police to
14 such firearm in a manner that meets or exceeds the requirements imposed
15 on licensed importers and licensed manufacturers of firearms pursuant to
16 subsection (i) of section nine hundred twenty-three of title eighteen of
17 the United States Code and regulations issued pursuant thereto.

18 (c) After the serial number provided by the division of state police
19 is engraved or otherwise permanently affixed to the firearm, such person
20 shall notify the division of that fact in a manner and within a time
21 period specified by the division of state police, and with sufficient
22 information to identify the owner of the firearm, the unique serial
23 number or mark of identification provided by the division of state
24 police, and the firearm in a manner prescribed by the division of state
25 police.

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

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1 3. (a) The division of state police shall accept applications from,
2 and shall grant applications in the form of serial numbers to persons
3 who wish to manufacture or assemble firearms pursuant to subdivision two
4 of this section. Such application shall be promulgated by the division
5 of state police.

6 (b) An application made pursuant to paragraph (a) of this subdivision
7 shall only be granted by the division of state police if such applicant
8 meets the following criteria:

9 (i) Be eighteen years of age or older;

10 (ii) Pass a national instant criminal background check and not be
11 otherwise prohibited from possessing a firearm by federal, state or
12 local law;

13 (iii) Have a valid license issued pursuant to section 400.00 of this
14 article; and

15 (iv) Provide proof in a manner prescribed by the division of state
16 police that the manufacture or assembly of the firearm for which the
17 application is submitted is in compliance with federal, state and local
18 laws and regulations.

19 (c) The division of state police shall inform applicants who are
20 denied an application of the reasons for the denial in writing within
21 fifteen days of such denial.

22 4. The division of state police shall keep a record of all persons who
23 receive a unique serial number or other mark pursuant to subdivision
24 three of this section and the information submitted pursuant to para-
25 graph (c) of subdivision two of this section in the statewide license
26 and record database created and maintained pursuant to section 400.02 of
27 this article.

28 5. The division of state police may charge a fee of three hundred
29 fifty dollars for processing applications and assigning serial numbers
30 pursuant to subdivision three of this section. Seventy percent of such
31 fee shall be deposited in the dealers' record of sale account estab-
32 lished pursuant to section ninety-four-c of the state finance law and
33 thirty percent of such fee shall be deposited in the gun violence family
34 relief fund established pursuant to section ninety-nine-ee of the state
35 finance law.

36 6. (a) The sale or transfer of ownership of a firearm manufactured or
37 assembled pursuant to this section is prohibited.

38 (b) No person shall knowingly allow, facilitate, aid or abet the manu-
39 facture or assembly of a firearm pursuant to this section by a person
40 who is prohibited from possessing a firearm pursuant to federal, state
41 or local law.

42 7. (a) A violation of the provisions of this section shall be punisha-
43 ble by imprisonment not to exceed six months, or by a fine not to exceed
44 one thousand dollars, or by both, unless such manufactured or assembled
45 firearm is an assault weapon as defined in subdivision twenty-two of
46 section 265.00 of this chapter.

47 (b) A violation of the provisions of this section involving an assault
48 weapon, as defined in subdivision twenty-two of section 265.00 of this
49 chapter, shall be punishable by imprisonment not to exceed one year, or
50 by a fine not to exceed one thousand dollars, or by both.

51 8. The superintendent of the division of state police shall promulgate
52 rules and regulations necessary to administer this section.

53 9. This section shall not apply to a firearm that has a serial number
54 assigned to it pursuant to chapter fifty-three of title twenty-six of
55 the United States Code and the regulations issued pursuant thereto.

10. Nothing in this section shall be deemed to affect, impair or supersede the provisions and requirements of the penal law otherwise applicable to firearms.

§ 2. The state finance law is amended by adding a new section 94-c to read as follows:

§ 94-c. Dealers' record of sale account. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller a fund to be known as the "dealers' record of sale account".

2. The dealers' record of sale account shall consist of moneys received by the state pursuant to subdivision five of section 400.15 of the penal law and deposited in the account pursuant to such subdivision.

3. Moneys of the fund, following appropriation by the legislature and allocation by the director of the budget, shall be made available for the state operation expenses of the division of state police including the actual costs associated with processing applications and assigning a distinguishing number or mark to firearms pursuant to section 400.15 of the penal law and the operation of the statewide license and record database created and maintained pursuant to section 400.02 of the penal law.

4. The superintendent of state police, no later than March fifteenth of each year, shall furnish to the governor, the speaker of the assembly and the temporary president of the senate, a report detailing each programmatic component associated with processing applications and assigning a distinguishing number or mark to firearms pursuant to section 400.15 of the penal law for the previous year.

§ 3. The state finance law is amended by adding a new section 99-ee to read as follows:

§ 99-ee. Gun violence family relief fund. 1. There is hereby established in the joint custody of the commissioner of taxation and finance and the comptroller a fund to be known as the "gun violence family relief fund".

2. The gun violence family relief fund shall consist of moneys received by the state pursuant to subdivision five of section 400.15 of the penal law and deposited in the account pursuant to such subdivision. Nothing contained in this section 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. On or before the first of February each year, the comptroller shall certify to the governor, temporary president of the senate, speaker of the assembly, chair of the senate finance committee and chair of the assembly ways and means committee, the amount of money deposited in the gun violence family relief fund during the preceding calendar year as the result of revenue derived pursuant to subdivision five of section 400.15 of the penal law and from grants, gifts and bequests.

4. On or before the first of February each year, the commissioner of health shall provide a written report to the temporary president of the senate, speaker of the assembly, chair of the senate finance committee, chair of the assembly ways and means committee, chair of the senate committee on health, chair of the assembly health committee, the state comptroller and the public. Such report shall include how the moneys 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;

1 (iii) the amount awarded to each;
2 (iv) the purposes for which such awards were granted; and
3 (v) a summary financial plan for such moneys which shall include esti-
4 mates of all receipts and all disbursements for the current and succeed-
5 ing fiscal years, along with the actual results from the prior fiscal
6 year.

7 5. Moneys of the fund shall be expended only to assist families with
8 housing, education and nutrition assistance in cases where a parent is
9 killed in a gun violence incident and to assist families of child
10 victims of guns violence with grievance therapy or legal fees approved
11 by the New York state department of health.

12 6. Moneys shall be payable from the fund on the audit and warrant of
13 the comptroller on vouchers approved and certified by the commissioner
14 of health.

15 7. To the extent practicable, the commissioner of health shall ensure
16 that all moneys received during a fiscal year are expended prior to the
17 end of that fiscal year.

18 § 4. This act shall take effect on the ninetieth day after it shall
19 have become a law. Effective immediately, the addition, amendment
20 and/or repeal of any rule or regulation necessary for the implementation
21 of this act on its effective date are authorized and directed to be made
22 and completed on or before such effective date.