STATE OF NEW YORK

2181

2019-2020 Regular Sessions

IN SENATE

January 23, 2019

Introduced by Sens. BAILEY, COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to providing for compensation for injury or death caused by the negligent entrustment of a firearm

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

Section 1. Legislative intent. The federal Protection of Lawful Commerce in Arms Act, 109 P.L. 92, 119 Stat. 2095, bars almost all civil actions or proceedings against manufacturers and sellers of firearms, but it provides an exemption for actions brought for negligent entrustment. Negligent entrustment under the act means the supplying of a firearm by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others. It is the intent of the legislature to extend the negligent entrustment liability of firearm manufacturers and sellers to the maximum extent allowable under federal law.

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

§ 11-108. Compensation for injury or death caused by the negligent entrustment of a firearm. 1. Any person who is injured in person, property, means of support, or otherwise by the use of a firearm shall have a right of action against any person or entity who caused or contributed to the injury through the negligent entrustment of a firearm. In any such action, the injured person shall have a right to recover actual and punitive damages.

2. In case of the death of the person injured, the action or right of action given by this action shall survive to his or her executor or

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

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administrator, and the amount so recovered by either a spouse or child shall be his or her sole and separate property.

3. Actions as described in subdivision one or two of this section may be brought in any court of competent jurisdiction.

4. In any case where parents shall be entitled to such damages, either parent may sue alone therefor, but recovery by one of such parties shall be a bar to suit brought by the other.

5. As used in this section, "negligent entrustment" means the supplying of a firearm by a seller for use by another person when the seller knows, or reasonably should know, the person to whom the product is supplied is likely to, and does, use the product in a manner involving unreasonable risk of physical injury to the person or others.

6. For the purposes of this section, the distribution of an automatic or semi-automatic firearm not typically used for lawful hunting purposes, including but not limited to handguns and assault weapons, to the public, including those with a permit to possess a firearm, involves an unreasonable risk of physical injury to others.

§ 3. This act shall take effect immediately and shall apply to all claims arising on or after such effective date and to all claims pending on such effective date.