

STATE OF NEW YORK

3152

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

Introduced by 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 Assembly, 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

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

LBD06269-01-9

1 police, and the firearm in a manner prescribed by the division of state
2 police.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4 10. Nothing in this section shall be deemed to affect, impair or
5 supersede the provisions and requirements of this chapter otherwise
6 applicable to firearms.

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

9 § 94-c. Dealers' record of sale account. 1. There is hereby estab-
10 lished in the joint custody of the commissioner of taxation and finance
11 and the comptroller a fund to be known as the "dealers' record of sale
12 account".

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

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

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

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

32 § 99-ff. Gun violence family relief fund. 1. There is hereby estab-
33 lished in the joint custody of the commissioner of taxation and finance
34 and the comptroller a fund to be known as the "gun violence family
35 relief fund".

36 2. The gun violence family relief fund shall consist of moneys
37 received by the state pursuant to subdivision five of section 400.15 of
38 the penal law and deposited in the account pursuant to such subdivision.
39 Nothing contained in this section shall prevent the state from receiving
40 grants, gifts or bequests for the purposes of the fund as defined in
41 this section and depositing them into the fund according to law.

42 3. On or before the first of February each year, the comptroller shall
43 certify to the governor, temporary president of the senate, speaker of
44 the assembly, chair of the senate finance committee and chair of the
45 assembly ways and means committee, the amount of money deposited in the
46 gun violence family relief fund during the preceding calendar year as
47 the result of revenue derived pursuant to subdivision five of section
48 400.15 of the penal law and from grants, gifts and bequests.

49 4. On or before the first of February each year, the commissioner of
50 health shall provide a written report to the temporary president of the
51 senate, speaker of the assembly, chair of the senate finance committee,
52 chair of the assembly ways and means committee, chair of the senate
53 committee on health, chair of the assembly health committee, the state
54 comptroller and the public. Such report shall include how the moneys of
55 the fund were utilized during the preceding calendar year, and shall
56 include:

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

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

15 6. Moneys shall be payable from the fund on the audit and warrant of
 16 the comptroller on vouchers approved and certified by the commissioner
 17 of health.

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

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