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:

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

§ 400.15 Assembly of firearms.

1. As used in this section, "manufacturing" or "assembling" a firearm means to fabricate or construct a firearm, or to fit together the component parts of a firearm to construct a firearm.

2. (a) A person shall apply to the division of state police for a unique serial number or other mark of identification pursuant to subdivision three of this section prior to manufacturing or assembling a firearm.

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

(c) After the serial number provided by the division of state police is engraved or otherwise permanently affixed to the firearm, such person shall notify the division of that fact in a manner and within a time period specified by the division of state police, and with sufficient information to identify the owner of the firearm, the unique serial 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.

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

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

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

(i) Be eighteen years of age or older;

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

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

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

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

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

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

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

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

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

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

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

9. This section shall not apply to a firearm that has a serial number assigned to it pursuant to chapter fifty-three of title twenty-six of 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 this chapter 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-ff to read as follows:

§ 99-ff. 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;
(iii) the amount awarded to each;
(iv) the purposes for which such awards were granted; and
(v) a summary financial plan for such moneys 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. Moneys of the fund shall be expended only to assist families with housing, education and nutrition assistance in cases where a parent is killed in a gun violence incident and to assist families of child victims of guns violence with grievance therapy or legal fees approved by the New York state department of health.

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

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

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