STATE OF NEW YORK

4116--A

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sens. HOYLMAN, BIAGGI, KAPLAN, RAMOS, SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to requiring semiautomatic pistols sold in this state be verified as a microstamping-enabled pistol; and to amend the executive law, in relation to requiring the division of criminal justice services to certify the viability of microstamping-enabled pistols

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

Section 1. Section 265.00 of the penal law is amended by adding three new subdivisions 33, 34 and 35 to read as follows:

33. "Microstamp" means a unique alphanumeric or geometric code that identifies the make, model, and serial number of a firearm.

34. "Microstamping component" means a component part of a semi-automatic pistol that will produce a microstamp on at least one location of the expended cartridge case each time the pistol is fired.

35. "Microstamping-enabled pistol" means any semiautomatic pistol that contains a microstamping component.

§ 2. The executive law is amended by adding a new section 837-w to read as follows:

§ 837-w. Technological viability of microstamping-enabled firearms. 1. As used in this section, the terms "microstamping-enabled pistols" and "microstamping components" shall have the same meaning as defined in article two hundred sixty-five of the penal law.

2. The division or a designee shall within one hundred eighty days of the effective date of this section:

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

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(a) engage in and complete an investigation to certify the technological viability of microstamping-enabled pistols. This investigation shall include live-fire testing evidence; and

(b) certify or decline to certify that microstamping-enabled pistols are technologically viable.

3. Following a certification by the division or a designee that microstamping-enabled pistols are technologically viable, the division shall:

(a) within three hundred sixty-five days from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish performance standards, qualifying criteria and testing protocols applicable to the examination and verification of microstamping-enabled pistols and microstamping components;

(b) within two years from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish and implement verification processes for microstamping-enabled pistols and microstamping components;

(c) within two years from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, establish processes and standards for the training and licensure of persons, associations, partnerships, corporations, or other entities so that such may engage in the business of servicing semi-automatic pistols and their components to ensure compliance with the requirements of article two hundred sixty-five of the penal law; and

(d) within two years from the date of certification of the viability of such technology by division or a designee pursuant to subdivision one of this section, designate a body to service semiautomatic pistols and their components to ensure compliance with the requirements of article two hundred sixty-five of the penal law.

4. The division shall promulgate any rule or regulation as may be necessary to carry out the provisions of this section.

§ 3. The penal law is amended by adding a new section 265.38 to read as follows:

§ 265.38 Unlawful sale of a non-microstamping-enabled firearm.

1. It shall be unlawful for any dealer in firearms licensed under section 400.00 of this chapter, to sell, offer for sale, exchange, give, transfer or deliver any semiautomatic pistol unless such pistol has been verified as a microstamping-enabled pistol. A pistol may be verified as microstamping-enabled if it contains a microstamp component installed by its manufacturer or by a state licensed person, association, partnership, corporation, or other entity in compliance with state standards established by the commissioner of the division of criminal justice services or their designee. The provisions of this section shall not apply to a pistol manufactured prior to the effective date of this section.

2. (a) The first violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five hundred dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.

(b) The second violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five thousand dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.

(c) The third violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section is a class A misdemeanor and shall result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.

§ 4. Section 265.10 of the penal law is amended by adding a new subdivision 9 to read as follows:

9. Any person who modifies a microstamping-enabled pistol or microstamping component with the intent to prevent the production of a microstamp is, for a first offense, guilty of a class B misdemeanor, and for a second or subsequent offense, is guilty of a class A misdemeanor. For the purposes of this subdivision, it shall not be unlawful to replace the microstamping component of a microstamping-enabled pistol when the component is damaged or in need of replacement with another valid microstamping component for the safe use of the firearm or replacing such pin for a legitimate sporting purpose that is only used for that legitimate purpose.

§ 5. This act shall take effect immediately, provided, however, that section three of this act shall take effect 4 years after the certification that microstamping-enabled pistols are technologically viable by the division of criminal justice services or a designee or 1 year after a person, association, partnership, corporation or other entity has been licensed to engage in the business of servicing firearms and their components to ensure compliance with the requirements of this act, whichever is earlier, and provided that the commissioner of the division of criminal justice services shall notify the legislative bill drafting commission upon such certification 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 effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.