

# 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:

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

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

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

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

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

12 § 837-w. Technological viability of microstamping-enabled firearms. 1.  
13 As used in this section, the terms "microstamping-enabled pistols" and  
14 "microstamping components" shall have the same meaning as defined in  
15 article two hundred sixty-five of the penal law.

16 2. The division or a designee shall within one hundred eighty days of  
17 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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1 (a) engage in and complete an investigation to certify the technolog-  
2 ical viability of microstamping-enabled pistols. This investigation  
3 shall include live-fire testing evidence; and

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

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

9 (a) within three hundred sixty-five days from the date of certif-  
10 ication of the viability of such technology by division or a designee  
11 pursuant to subdivision one of this section, establish performance stan-  
12 dards, qualifying criteria and testing protocols applicable to the exam-  
13 ination and verification of microstamping-enabled pistols and micro-  
14 stamping components;

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

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

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

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

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

35 § 265.38 Unlawful sale of a non-microstamping-enabled firearm.

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

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

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

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

5 § 4. Section 265.10 of the penal law is amended by adding a new subdivision  
6 9 to read as follows:

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

17 § 5. This act shall take effect immediately, provided, however, that  
18 section three of this act shall take effect 4 years after the certification  
19 that microstamping-enabled pistols are technologically viable by  
20 the division of criminal justice services or a designee or 1 year after  
21 a person, association, partnership, corporation or other entity has been  
22 licensed to engage in the business of servicing firearms and their  
23 components to ensure compliance with the requirements of this act,  
24 whichever is earlier, and provided that the commissioner of the division  
25 of criminal justice services shall notify the legislative bill drafting  
26 commission upon such certification in order that the commission may  
27 maintain an accurate and timely effective data base of the official text  
28 of the laws of the state of New York in furtherance of effectuating the  
29 provisions of section 44 of the legislative law and section 70-b of the  
30 public officers law.