STATE OF NEW YORK

4116

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sens. HOYLMAN, KAPLAN -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT

to amend the penal law, in relation to requiring semiautomatic pistols manufactured or delivered to any licensed dealer in this state to be capable of microstamping ammunition

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 two new subdivisions 32 and 33 to read as follows:

32. "Microstamp-ready", when used with reference to a semiautomatic pistol, means that such pistol is manufactured to produce a unique alpha-numeric or geometric code on at least one location on each expended cartridge case that identifies the make, model, and serial number of the pistol.

33. "Microstamping component or mechanism", when used with reference to a semiautomatic pistol, means a component or mechanism of such pistol designed and intended to produce a unique alpha-numeric or geometric code on an expended cartridge that identifies the make, model, and serial number of the pistol.

§ 2. Subdivision 6 of section 265.10 of the penal law, as amended by chapter 189 of the laws of 2000, is amended to read as follows:

6. **(a)** Any person who wilfully defaces any machine-gun, large capacity ammunition feeding device or firearm**, including defacing a microstamping component or mechanism of a semiautomatic pistol,** is guilty of a class D felony.

(b) Any dealer in firearms licensed under section 400.00 of this chapter who sells, offers for sale, exchanges, gives, transfers or delivers a semiautomatic pistol, knowing that a microstamping component or mechanism of such pistol has been defaced, is guilty of a class A misdemeanor. For purposes of this subdivision, defacing a semiautomatic pistol

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

LBD02762-02-1

does not include (1) modifying a semiautomatic pistol to render it microstamp-ready or (2) replacing the firing pin of a semiautomatic pistol that is microstamp-ready when such pin is damaged or in need of replacement for the safe use of such pistol, or replacing such pin for a legitimate sporting purpose.

§ 3. The penal law is amended by adding two new sections 265.38 and 265.39 to read as follows:

§ 265.38 Microstamping of semiautomatic pistols; penalties.

It shall be unlawful:

1. for any dealer in firearms licensed under section 400.00 of this chapter, to sell, offer for sale, exchange, give, transfer or deliver a semiautomatic pistol manufactured on or after January first, two thousand twenty-three to any person other than a dealer in firearms, unless such pistol is microstamp-ready; or

2. for any manufacturer or wholesale dealer to deliver or cause to be delivered to any person in this state, a semiautomatic pistol manufactured after January first, two thousand twenty-three, unless the manufacturer certifies to such person at the time of such delivery, in accordance with rules and regulations promulgated by the division of state police, that such pistol is microstamp-ready. Such rules and regulations shall include a requirement that, as part of the certification, the manufacturer shall provide the make, model and serial number of the pistol.

A violation of any provision of this section is a class B misdemeanor; provided, however, that a person, including a dealer in firearms, wholesale dealer or a manufacturer, who violates any provision of this section after having previously been convicted of violating any provision of this section is guilty of a class A misdemeanor.

§ 265.39 Microstamping of semiautomatic pistols; affirmative defense.

In any prosecution under subdivision one of section 265.38 of this article, it is an affirmative defense that the dealer in firearms, at the time of sale, offer for sale, exchange, giving, transfer or delivery of the semiautomatic pistol, was in possession of:

1. a certification from the manufacturer of such pistol delivered pursuant to subdivision two of section 265.38 of this article, that such pistol is microstamp-ready; or

2. an exact copy of such certification obtained by the dealer in firearms from such manufacturer in accordance with applicable rules and regulations promulgated by the division of state police.

The division of state police shall promulgate rules and regulations governing procedures and standards for exact copies of certifications and the obtaining of such copies by a dealer in firearms from a manufacturer for purposes of this section.

§ 4. Subdivision 5 of section 265.15 of the penal law, as amended by chapter 695 of the laws of 1987, is amended to read as follows:

5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is presumptive evidence that such person defaced the same; provided, however, that this subdivision shall not apply to possession of a semiautomatic pistol where the defacement alleged consists of defacing a microstamping component or mechanism of such pistol.

§ 5. This act shall take effect January 1, 2023.