STATE OF NEW YORK

5000

2021-2022 Regular Sessions

IN SENATE

February 22, 2021

Introduced by Sen. KAVANAGH -- 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 the purchase and disposal of firearms, rifles and shotguns; and to amend the executive law, in relation to the reporting of firearms seized or recovered by law enforcement

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

Section 1. Section 265.17 of the penal law, as amended by chapter 1 of the laws of 2013, is amended to read as follows:

§ 265.17 Criminal purchase or disposal of a weapon.

A person is guilty of criminal purchase or disposal of a weapon when:

1. Knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, **or he or she, with knowledge that he or she is the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense,** such person purchases **or otherwise acquires** a firearm, rifle or shotgun from another person; or

2. Knowing that it would be unlawful for another person to possess a firearm, rifle or shotgun, **or knowing that another person is the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense,** he or she purchases **or otherwise acquires** a firearm, rifle or shotgun for, on behalf of, or for the use of such other person; or

3. Knowing that another person is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, **or knowing that another person is the subject of an outstanding warrant of arrest**

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

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issued upon the alleged commission of a felony or serious offense, a person disposes of a firearm, rifle or shotgun to such other person.

Criminal purchase or disposal of a weapon is a class D felony.

§ 2. Subdivisions 4 and 5 of section 230 of the executive law, as added by chapter 189 of the laws of 2000, are amended and three new subdivisions 6, 7 and 8 are added to read as follows:

4. The superintendent of the division of state police shall establish and maintain within the division a criminal gun clearinghouse as a central repository of information regarding all guns seized, forfeited, found or otherwise coming into the possession of any state or local law enforcement agency which are believed to have been used in the commission of a crime. The superintendent of the division of state police shall adopt and promulgate regulations prescribing reporting procedures for such state or local law enforcement agencies, including the form for reporting such information. In addition to any other information which the superintendent of the division of state police may require, the form shall require (a) the serial number or other identifying information on the gun, if available and (b) a brief description of the circumstances under which the gun came into the possession of the law enforcement agency, including the crime which was or may have been committed with the gun. Whenever a state or local law enforcement agency seizes or recovers a gun that was unlawfully possessed, recovered from a crime scene, or is reasonably believed to have been used in or associated with the commission of a crime, or is otherwise recovered by such agency as an abandoned or discarded gun, such agency shall report such seized or recovered gun to the criminal gun clearinghouse as soon as practicable, but in no case more than twenty-four hours after such agency has taken possession of such gun. Every report made to the criminal gun clearinghouse shall result in the submission of a request to the national tracing center of the bureau of alcohol, tobacco, firearms and explosives to initiate a trace of such gun and the bureau of alcohol, tobacco, firearms and explosives shall be directed to provide the gun trace results to the superintendent of the division of state police and to the law enforcement agency that submitted the clearinghouse report.

5. [~~In any case where a state or local law enforcement agency investigates the commission of a crime in this state and a specific gun is known to have been used in such crime, such agency shall submit a request to the national tracing center of the United States Department of Treasury, bureau of alcohol, tobacco and firearms to trace the movement of such gun and such federal agency shall be requested to provide the superintendent of the division of state police and the local law enforcement agency with the results of such a trace. This subdivision shall not apply where the source of a gun is already known to a local law enforcement agency.~~] All state and local law enforcement agencies shall participate in the bureau of alcohol, tobacco, firearms and explosives collective data sharing program for the purpose of sharing gun trace data among all law enforcement agencies in the state on a reciprocal basis.

6. (a) Whenever a state or local law enforcement agency seizes or recovers a gun that was unlawfully possessed, recovered from the scene of a crime, or is reasonably believed to have been used in or associated with the commission of a crime, or is otherwise recovered by such agency as an abandoned or discarded gun, such agency shall arrange for every such gun that is determined to be of a type that is eligible for national integrated ballistic information network data entry and correlation to be test-fired as soon as practicable, and the results of such

test-firing shall be submitted forthwith to the national integrated ballistic information network to determine whether such gun is associated or related to a crime, criminal event, or any individual associated or related to a crime or criminal event or reasonably believed to be associated or related to a crime or criminal event.

(b) Whenever a state or local law enforcement agency seizes or recovers any ammunition cartridge case from the scene of a crime that is of a type that is eligible for national integrated ballistic information network data entry and correlation, or otherwise has reason to believe that any seized or recovered ammunition cartridge case that is of a type that is eligible for national integrated ballistic information network data entry and correlation is related to or associated with the commission of a crime or the unlawful discharge of a gun, such agency shall, as soon as practicable, arrange for the ballistics information to be submitted to the national integrated ballistic information network.

7. Whenever a state or local law enforcement agency seizes or recovers any gun, such agency shall promptly enter the make, model, caliber, and serial number of such gun into the national crime information center system to determine whether such gun was reported stolen.

8. The superintendent may adopt rules and regulations to effectuate the provisions of this section.

§ 3. This act shall take effect July 1, 2021.