



Legislation Text

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Int. No. 197

By Council Members Yassky, Barron, Boyland, Brewer, Clarke, DeBlasio, Dilan, Felder, Fidler, Foster, Gerson, Jennings, Koppell, Monserrate, Nelson, Perkins, Quinn, Recchia, Rivera, Sanders, Seabrook, Serrano, Stewart, Reyna and Weprin

A Local Law to amend the administrative code of the City of New York, in relation to creating a cause of action against manufacturers of certain weapons.

Be it enacted by the Council as follows:

Section 1. A new section 10-303.2 is hereby added to chapter three of title ten of the administrative code of the city of New York to read as follows:

§ 10-303.2 Civil penalty; manufacturers of weapons.

a. A person, corporation, firm, partnership or other entity that manufactures any weapon shall be liable for any injuries or death if such weapon is used by a person who is not lawfully authorized to possess such weapon in the city of New York to injure or kill another individual within the city of New York. Weapon, for purposes of this section, shall mean a firearm, rifle, shotgun, or assault weapon, as such terms are defined in section 10-301; or a machine gun, as defined in the penal law. Such liability also includes the possible imposition of punitive damages. The liability under this section does not apply to persons, corporations, firms, partnerships or other entities that comply with the following provisions:

- (i) does not sell weapons to dealers who have more than 20 of all guns sold within any continuous 12 month period in the preceding 5 years traced to use in a crime or illegal possession, as determined by the Bureau of Alcohol, Tobacco and Firearms, or who have not, on their own, sold guns, 20 or more of which are traced to use in a crime or illegal

possession, as determined by the Bureau of Alcohol, Tobacco and Firearms;

- (ii) makes no sales at gun shows or alternate venues unless such sales at the gun show or alternate venue are conducted only upon completion of a background check and all sellers at the gun show or alternate venue agree to conduct sales only upon completion of a background check as dictated necessary by state and federal law for sale at a retail gun store;
- (iii) only sells weapons to dealers who operate a retail shop located at a fixed address where:
 - (a) the dealer maintains an electronic database of make, model, caliber or gauge, and serial number of all weapons held in inventory or offered for sale;
 - (b) the dealer maintains an electronic database of make, model, caliber or gauge, and serial number of all weapons sold and the name and license number of all purchasers;
 - (c) the dealer makes visible all permits and legally required signage.
- (i) provides full access of aforementioned records to law enforcement and government regulators conducting compliance inspections;
- (ii) limits purchases by any individual in any given 30 day period to one gun;
- (iii) implements a security plan for securing weapons in transit.

b. (1) No action may be commenced pursuant to this section by any person who is injured or killed by the discharge of a weapon while such person is committing or attempting to commit a crime (whether or not such crime is actually charged), or while such person is attempting to evade arrest by a law enforcement official. This exemption shall be in the nature of an affirmative defense, and shall be proven by a preponderance of the evidence.

(2) No action may be commenced pursuant to this section by any person injured or killed by the discharge of a weapon by a law enforcement official.

(3) This section shall not limit in scope any cause of action, other than that provided by this section,

available to a person injured by or killed by a weapon.

(4) Nothing in this section shall prevent a manufacturer, importer or dealer from seeking whole or partial indemnity or contribution for any liability incurred under this section from any third party wholly or partially responsible for the injury or death.

(5) No action may be commenced pursuant to this section by any person for a self-inflicted injury.

c. Notwithstanding the provisions of subdivision a, there shall be no basis for liability under this section if the manufacturer proves by a preponderance of the evidence that: (1) the manufacturer disposed of the weapon to the armed forces of the United States, or a federal, state or local law enforcement agency; or (2) prior to the seizure of the weapon, a lawful possessor of the weapon has reported its theft to a federal, state or local law enforcement agency.

§ 2. This local law shall take effect 60 days after it has been enacted.

TJB
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