NEW YORK CITY BAR

REPORT ON LEGISLATION BY THE CRIMINAL JUSTICE OPERATIONS COMMITTEE

A.7926-A
M. of A. L. Rosenthal

S.4116-A
Sen. Hoylman

Requires semiautomatic pistols sold in this state be verified as a microstamping-enabled pistol; establishes fines for violations of this requirement; requires the division of criminal justice services to certify the viability of microstamping-enabled pistols.

THIS BILL IS APPROVED

This report is respectfully submitted by the Criminal Justice Operations Committee (the “Committee”) of the New York City Bar Association (the “City Bar”). The City Bar is an organization of approximately 24,000 members dedicated to improving the administration of justice. The members of the Committee include prosecutors and criminal defense attorneys who analyze the legal, social, and public policy aspects of criminal justice issues facing New Yorkers today.

As amended, this bill requires the Division of Criminal Justice Services to first examine the technological viability of microstamping-enabled pistols, and if such investigation deems the technology viable, requires semiautomatic pistols sold in New York State to be microstamping-enabled. According to the bill, “microstamp” means a unique alphanumeric or geometric code that identifies the make, model, and serial number of a firearm. “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 each time the pistol is fired. And, “microstamping-enabled pistol” means any semi-automatic pistol that contains a microstamping component.

Because ballistic identification markings will aid law enforcement officials in their investigations of homicides and other gun-related crimes, the Criminal Justice Operations Committee supports this important legislation.

There are several benefits to requiring semiautomatic pistols to be capable of microstamping ammunition. Frequently, the only items of evidentiary value remaining at a crime scene after a shooting are cartridge casings. If the casings are stamped with unique identifying markings, the casings can be easily matched to the specific weapon used in the crime and to the

About the Association
The mission of the New York City Bar Association, which was founded in 1870 and has approximately 24,000 members, is to equip and mobilize a diverse legal profession to practice with excellence, promote reform of the law, and uphold the rule of law and access to justice in support of a fair society and the public interest in our community, our nation, and throughout the world.
firearm’s registered owner. This information, in turn, may be crucial to locating the shooter. Current ballistics technology, by contrast, can examine unintentional markings on casings and can be used only to compare ballistics evidence recovered at crimes scenes without providing leads to the specific firearm that was used, unless the firearm has also been recovered. Indeed, the microstamped codes are expected to be as valuable a tool as vehicle identification numbers on cars, as both technologies provide accurate methods of locating each instrumentality’s registered owner. Regardless of whether these technologies prove the identity of the perpetrator, each provides a valuable lead for law enforcement officials to aid in their investigations.

Another significant benefit of the microstamping legislation is that it is likely to serve as a deterrent to those who purchase guns for others, commonly known as straw buyers. Because criminals in New York may not purchase guns, often other individuals with clean records purchase weapons for them. However, if the weapons are used in future crimes and will be traced back to the purchasers, the purchasers may choose not to take such a risk and fewer guns may be available to criminals.

One past criticism of the proposed legislation is that clever criminals can leave at crime scenes other casings they have previously collected. This is not a reason to reject the legislation, however. It is just recognition that forensic evidence, like DNA and fingerprints, is not necessarily dispositive and may not always lead to the perpetrator. Finally, weapons organizations have claimed speculatively that microstamping technology is not reliable. Researchers have found no support for this assertion and in fact existing studies attest to the technology’s reliability. Indeed, some agencies compare it to law enforcement’s use of a license plate to identify the owner of a vehicle in terms of technological advancement and accuracy. In any case, the bill has been amended to provide for initial viability studies by DCJS.

Microstamping has been considered as one of three types of federal laws that can reduce firearm mortality rates; further, the microstamping technology has been praised as a valuable and inexpensive tool. In 2011, the New York legislation was endorsed by over 100 law enforcement agencies, police departments and elected officials from around the State, including former Mayor

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4 Microstamping Technology Report, supra note 2, at 23-30 (analyzing research that microstamping is (1) effective, (2) commercially viable, and (3) helpful to law enforcement).
Bloomberg and former Attorney General Schneiderman. And, of course, it should also be recognized that microstamping could help to exonerate an accused or suspected offender.

The New York Legislature’s passage of the microstamping bill will bring law enforcement one step closer to solving violent gun crimes and deterring future crimes, with no identifiable downside. Accordingly, the New York City Bar Association urges its immediate passage.

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