

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law and the general business law, in relation to banning the possession, sale or manufacture of assault weapons; and to repeal subdivision 22 of section 265.00 of the penal law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The New York state legislature finds that semi-automatic
2 assault weapons are military-style guns designed to allow rapid and
3 accurate spray firing for the quick and efficient killing of humans. The
4 shooter can simply point - as opposed to carefully aim - the weapon to
5 quickly spray a wide area with a hail of bullets. Gun manufacturers have
6 for many years made, marketed and sold to civilians semi-automatic
7 versions of military assault weapons designed with features specifically
8 intended to increase lethality for military applications. As a result,
9 approximately 2,000,000 assault weapons are currently in circulation in
10 the United States. These weapons have been the weapon of choice in the
11 most notorious mass shootings of innocent civilians in the United
12 States, including the 1999 massacre at Columbine High School (TEC-DC9
13 assault pistol and Hi-Point Carbine) and the 2002 Washington, D.C.-area
14 sniper shootings (Bushmaster XM15 assault rifle). According to FBI data,
15 between 1998 and 2001, one in five law enforcement officers slain in the
16 line of duty was killed with an assault weapon. In 2003, New York lost
17 two of its finest when undercover officers in the elite Firearms Inves-
18 tigation Unit of the NYPD Organized Crime Control Bureau were brutally
19 murdered while attempting to purchase an illegal TEC-9 semi-automatic
20 assault weapon. The availability of military-style assault weapons poses
21 a serious threat to the public health and safety. Most citizens, includ-

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

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ing most gun owners, believe that assault weapons should not be available for civilian use.

S 2. Subdivision 22 of section 265.00 of the penal law is REPEALED and a new subdivision 22 is added to read as follows:

22. "ASSAULT WEAPON" MEANS ANY:

(A) SEMI-AUTOMATIC RIFLE THAT HAS THE CAPACITY TO ACCEPT A DETACHABLE MAGAZINE AND HAS ONE OR MORE OF THE FOLLOWING:

(I) A PISTOL GRIP OR THUMBHOLE STOCK;

(II) A SECOND HANDGRIP OR A PROTRUDING GRIP THAT CAN BE HELD BY THE NON-TRIGGER HAND;

(III) A FOLDING OR TELESCOPING STOCK;

(IV) A SHROUD ATTACHED TO THE BARREL, OR THAT PARTIALLY OR COMPLETELY ENCIRCLES THE BARREL, ALLOWING THE BEARER TO HOLD THE FIREARM WITH THE NON-TRIGGER HAND WITHOUT BEING BURNED, BUT EXCLUDING A SLIDE THAT ENCLOSSES THE BARREL; OR

(V) A MUZZLE BRAKE OR MUZZLE COMPENSATOR;

(B) SEMI-AUTOMATIC PISTOL, OR ANY SEMI-AUTOMATIC, CENTERFIRE RIFLE WITH A FIXED MAGAZINE, THAT HAS THE CAPACITY TO ACCEPT MORE THAN TEN ROUNDS OF AMMUNITION;

(C) SEMI-AUTOMATIC PISTOL THAT HAS THE CAPACITY TO ACCEPT A DETACHABLE MAGAZINE AND HAS ONE OR MORE OF THE FOLLOWING:

(I) A SECOND HANDGRIP OR A PROTRUDING GRIP THAT CAN BE HELD BY THE NON-TRIGGER HAND;

(II) A FOLDING, TELESCOPING OR THUMBHOLE STOCK;

(III) A SHROUD ATTACHED TO THE BARREL, OR THAT PARTIALLY OR COMPLETELY ENCIRCLES THE BARREL, ALLOWING THE BEARER TO HOLD THE FIREARM WITH THE NON-TRIGGER HAND WITHOUT BEING BURNED, BUT EXCLUDING A SLIDE THAT ENCLOSSES THE BARREL;

(IV) A MUZZLE BRAKE OR MUZZLE COMPENSATOR; OR

(V) THE CAPACITY TO ACCEPT A DETACHABLE MAGAZINE AT ANY LOCATION OUTSIDE OF THE PISTOL GRIP;

(D) SEMI-AUTOMATIC SHOTGUN THAT HAS ONE OR MORE OF THE FOLLOWING:

(I) A PISTOL GRIP, A THUMBHOLE STOCK OR A VERTICAL HANDGRIP;

(II) A FOLDING OR TELESCOPING STOCK;

(III) A FIXED MAGAZINE CAPACITY IN EXCESS OF FIVE ROUNDS; OR

(IV) AN ABILITY TO ACCEPT A DETACHABLE MAGAZINE;

(E) SHOTGUN WITH A REVOLVING CYLINDER; OR

(F) CONVERSION KIT, PART, OR COMBINATION OF PARTS, FROM WHICH AN ASSAULT WEAPON CAN BE ASSEMBLED IF THOSE PARTS ARE IN THE POSSESSION OR UNDER THE CONTROL OF THE SAME PERSON.

(G) MODIFICATIONS OF SUCH FEATURES, OR OTHER FEATURES, DETERMINED BY RULES AND REGULATIONS OF THE SUPERINTENDENT OF STATE POLICE TO BE NOT PARTICULARLY SUITABLE FOR SPORTING PURPOSES. IN ADDITION, THE SUPERINTENDENT OF STATE POLICE SHALL, BY RULES AND REGULATIONS, DESIGNATE SPECIFIC SEMI-AUTOMATIC CENTERFIRE OR RIMFIRE RIFLES OR SEMI-AUTOMATIC SHOTGUNS, IDENTIFIED BY MAKE, MODEL, AND MANUFACTURER'S NAME, TO BE WITHIN THE DEFINITION OF ASSAULT WEAPON, IF THE SUPERINTENDENT OF STATE POLICE DETERMINES THAT SUCH WEAPONS ARE NOT PARTICULARLY SUITABLE FOR SPORTING PURPOSES. A LIST OF ASSAULT WEAPONS, AS DETERMINED BY THE SUPERINTENDENT OF STATE POLICE, SHALL BE MADE AVAILABLE ON A REGULAR BASIS TO THE GENERAL PUBLIC.

PROVIDED, HOWEVER, THAT SUCH TERM DOES NOT INCLUDE ANY WEAPON THAT HAS BEEN RENDERED PERMANENTLY INOPERABLE.

S 3. Section 265.00 of the penal law is amended by adding four new subdivisions 24, 25, 26 and 27 to read as follows:

1 24. "DETACHABLE MAGAZINE" MEANS ANY AMMUNITION FEEDING DEVICE THAT CAN
2 BE INSERTED INTO A FIREARM INCLUDING ANY FEEDING DEVICE THAT CAN BE
3 LOADED OR UNLOADED WHILE DETACHED FROM THE FIREARM.

4 25. "MUZZLE BRAKE" MEANS A DEVICE ATTACHED TO THE MUZZLE OF A WEAPON
5 THAT UTILIZES ESCAPING GAS TO REDUCE RECOIL.

6 26. "MUZZLE COMPENSATOR" MEANS A DEVICE ATTACHED TO THE MUZZLE OF A
7 WEAPON THAT UTILIZES ESCAPING GAS TO CONTROL MUZZLE MOVEMENT.

8 27. "FIXED MAGAZINE" MEANS AN AMMUNITION FEEDING DEVICE CONTAINED IN,
9 OR PERMANENTLY ATTACHED TO, A FIREARM IN SUCH A MANNER THAT THE DEVICE
10 CANNOT BE REMOVED WITHOUT DISASSEMBLY OF THE FIREARM ACTION.

11 S 4. Section 265.20 of the penal law is amended by adding a new subdi-
12 vision e to read as follows:

13 E. POSSESSION OF AN ASSAULT WEAPON ON PROPERTY OWNED OR IMMEDIATELY
14 CONTROLLED BY THE PERSON, OR WHILE ON THE PREMISES OF A LICENSED
15 GUNSMITH FOR THE PURPOSE OF LAWFUL REPAIR, OR WHILE ENGAGED IN THE LEGAL
16 USE OF THE ASSAULT WEAPON AT A DULY LICENSED FIRING RANGE, OR WHILE
17 TRAVELING TO OR FROM THESE LOCATIONS, BY A PERSON WHO LAWFULLY POSSESSED
18 SUCH WEAPON PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN AND WHO, PRIOR TO
19 OCTOBER FIRST, TWO THOUSAND FIFTEEN:

20 1. RENDERS THE ASSAULT WEAPON PERMANENTLY INOPERABLE; OR

21 2. SURRENDERS THE ASSAULT WEAPON TO THE APPROPRIATE LAW ENFORCEMENT
22 AGENCY AS PROVIDED FOR IN SUBPARAGRAPH (F) OF PARAGRAPH ONE OF SUBDIVI-
23 SION A OF THIS SECTION; OR

24 3. REGISTERS THE ASSAULT WEAPON AS PROVIDED FOR IN SECTION THREE
25 HUNDRED NINETY-SIX-FF OF THE GENERAL BUSINESS LAW.

26 S 5. The general business law is amended by adding a new section 396-
27 ff to read as follows:

28 S 396-FF. RULES AND REGULATIONS. THE DIVISION OF STATE POLICE SHALL
29 NO LATER THAN JULY FIRST, TWO THOUSAND FIFTEEN, PROMULGATE RULES AND
30 REGULATIONS FOR THE ADDITION OF INFORMATION IDENTIFYING ASSAULT WEAPONS
31 LAWFULLY POSSESSED PRIOR TO JANUARY FIRST, TWO THOUSAND FIFTEEN TO THE
32 DATABANK ESTABLISHED BY THIS SECTION. SUCH RULES AND REGULATIONS SHALL,
33 AT A MINIMUM, SPECIFY PROCEDURES BY WHICH THE OWNER OF AN ASSAULT WEAPON
34 LAWFULLY POSSESSED PRIOR TO JULY FIRST, TWO THOUSAND FIFTEEN IS TO
35 DELIVER AN ASSAULT WEAPON AND VERIFICATION OF A BACKGROUND CHECK
36 REQUIRED BY 18 USC S 922 TO THE REGIONAL PROGRAM FOR TESTING AND PROMPT
37 RETURN. UPON RECEIPT OF THE SEALED CONTAINER AND INSPECTION OF A CERTIF-
38 ICATE PROVING THAT A BACKGROUND CHECK HAS BEEN CONDUCTED AND THE OWNER
39 IS NOT PROHIBITED FROM POSSESSING A FIREARM, THE DIVISION OF STATE
40 POLICE SHALL CAUSE TO BE ENTERED IN THE AUTOMATED ELECTRONIC DATABANK
41 PERTINENT DATA, INCLUDING BALLISTIC INFORMATION RELEVANT TO IDENTIFICA-
42 TION OF THE SHELL CASING AND TO THE ASSAULT WEAPON FROM WHICH IT WAS
43 DISCHARGED, AND THE DATE AND PLACE OF THE BACKGROUND CHECK AND THE NAME
44 OF THE INDIVIDUAL WHO CONDUCTED SUCH BACKGROUND CHECK.

45 S 6. Severability. If any provision or term of this act is for any
46 reason declared unconstitutional or invalid or ineffective by any court
47 of competent jurisdiction, such decision shall not affect the validity
48 or the effectiveness of the remaining portions of this act or any part
49 thereof.

50 S 7. This act shall take effect July 1, 2015; provided that the divi-
51 sion of state police is authorized to promulgate any and all rules and
52 regulations and take any other measures necessary to implement this act
53 on its effective date on or before such date.