

STATE OF NEW YORK

1209

2017-2018 Regular Sessions

IN SENATE

January 6, 2017

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law and the penal law in relation to removing prohibition on possession and use of firearm silencers

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

- 1 Section 1. Subdivision 1 of section 11-0931 of the environmental
2 conservation law, the opening paragraph and subparagraph 1 of paragraph
3 c as amended by chapter 135 of the laws of 1982, is amended to read as
4 follows:
- 5 1. No person except a law enforcement officer in the performance of
6 his official duties shall use in hunting or possess in the fields or
7 forests or on the waters of the state for any purpose:
- 8 a. ~~the apparatus known as a silencer,~~
9 ~~b.~~ any automatic firearm, or any firearm which has been converted to
10 an automatic type, or any firearm which has a built-in mechanical
11 adjustment which will permit it to function as an automatic arm; or
12 ~~e.~~ b. any auto-loading firearm of a construction to contain more
13 than six shells in the magazine and chamber combined, except
14 (1) such a firearm using twenty-two caliber rim-fire ammunition, or
15 (2) such a firearm which has been altered so as to reduce its capacity
16 to not more than six shells at one time in the magazine and chamber
17 combined, or
18 (3) an auto-loading pistol having a barrel less than eight inches in
19 length.
- 20 ~~d. An~~ c. an automatic firearm is defined as one which will continue
21 to fire as long as the trigger is held back. An auto-loading firearm is
22 defined as one which reloads itself after each shot and requires that
23 the trigger be pulled back for each shot.

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

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§ 2. Subdivision 2 of section 265.02 of the penal law, as amended by chapter 764 of the laws of 2005, is amended to read as follows:

(2) Such person possesses any explosive or incendiary bomb, bombshell, ~~[firearm-silencer]~~ machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or

§ 3. Subdivisions 2 and 3 of section 265.10 of the penal law, subdivision 2 as amended by chapter 257 of the laws of 2008 and subdivision 3 as amended by chapter 189 of the laws of 2000, are amended to read as follows:

2. Any person who transports or ships any machine-gun, ~~[firearm-silencer]~~ assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. Any person who transports or ships as merchandise any firearm, other than an assault weapon, switchblade knife, gravity knife, pilum ballistic knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, Kung Fu star, chuka stick, sandbag or slungshot is guilty of a class A misdemeanor.

3. Any person who disposes of any machine-gun, assault weapon~~[r]~~ or large capacity ammunition feeding device ~~[or firearm-silencer]~~ is guilty of a class D felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony.

§ 4. Subdivision 3 of section 265.15 of the penal law, as amended by chapter 257 of the laws of 2008, is amended to read as follows:

3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, large capacity ammunition feeding device, defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, ~~[firearm-silencer]~~ explosive or incendiary bomb, bombshell, gravity knife, switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, dirk, stiletto, billy, blackjack, plastic knuckles, metal knuckles, chuka stick, sandbag, sandclub or slungshot is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same.

§ 5. This act shall take effect immediately.