

6108

2011-2012 Regular Sessions

I N A S S E M B L Y

March 7, 2011

Introduced by M. of A. TITONE, COOK, PEOPLES-STOKES, KAVANAGH, SCHIMEL
-- Multi-Sponsored by -- M. of A. BOYLAND, GLICK, GOTTFRIED, MAYER-
SOHN, PERRY, TOWNS -- read once and referred 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 ASSEM-
BLY, 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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1 ing most gun owners, believe that assault weapons should not be avail-
2 able for civilian use.

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 Subdivision 22 of section 265.00 of the penal law is REPEALED and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

5 22. "ASSAULT WEAPON" MEANS ANY:

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

8 (I) A PISTOL GRIP;

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

11 (III) A FOLDING OR TELESCOPING STOCK;

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

16 (V) A MUZZLE BRAKE OR MUZZLE COMPENSATOR;

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

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

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

24 (II) A FOLDING OR TELESCOPING STOCK;

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

29 (IV) A MUZZLE BRAKE OR MUZZLE COMPENSATOR; OR

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

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

33 (I) A PISTOL GRIP OR A VERTICAL HANDGRIP;

34 (II) A FOLDING OR TELESCOPING STOCK;

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

36 (IV) AN ABILITY TO ACCEPT A DETACHABLE MAGAZINE;

37 (E) SHOTGUN WITH A REVOLVING CYLINDER;

38 (F) GRENADE LAUNCHER;

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

42 (H) MODIFICATIONS OF SUCH FEATURES, OR OTHER FEATURES, DETERMINED BY
43 RULES AND REGULATIONS OF THE SUPERINTENDENT OF STATE POLICE TO BE
44 PARTICULARLY SUITABLE FOR MILITARY AND NOT SPORTING PURPOSES. IN ADDI-
45 TION, THE SUPERINTENDENT OF STATE POLICE SHALL, BY RULES AND REGU-
46 LATIONS, DESIGNATE SPECIFIC SEMIAUTOMATIC CENTERFIRE OR RIMFIRE RIFLES
47 OR SEMIAUTOMATIC SHOTGUNS, IDENTIFIED BY MAKE, MODEL AND MANUFACTURER'S
48 NAME, TO BE WITHIN THE DEFINITION OF ASSAULT WEAPON, IF THE SUPERINTEN-
49 DENT OF STATE POLICE DETERMINES THAT SUCH WEAPONS ARE PARTICULARLY SUIT-
50 ABLE FOR MILITARY AND NOT SPORTING PURPOSES. A LIST OF ASSAULT WEAPONS,
51 AS DETERMINED BY THE SUPERINTENDENT OF STATE POLICE, SHALL BE MADE
52 AVAILABLE ON A REGULAR BASIS TO THE GENERAL PUBLIC.

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

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

1 24. "DETACHABLE MAGAZINE" MEANS ANY AMMUNITION FEEDING DEVICE, THE
2 FUNCTION OF WHICH IS TO DELIVER ONE OR MORE AMMUNITION CARTRIDGES INTO
3 THE FIRING CHAMBER, WHICH CAN BE REMOVED FROM THE FIREARM WITHOUT THE
4 USE OF ANY TOOL, INCLUDING A BULLET OR AMMUNITION CARTRIDGE.

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

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

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

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

18 1. RENDERS THE ASSAULT WEAPON PERMANENTLY INOPERABLE; OR

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

22 3. REGISTERS THE ASSAULT WEAPON AS PROVIDED FOR IN SUBDIVISION SEVEN
23 OF SECTION THREE HUNDRED NINETY-SIX-FF OF THE GENERAL BUSINESS LAW.

24 S 5. Subdivision 7 of section 396-ff of the general business law is
25 renumbered subdivision 8 and a new subdivision 7 is added to read as
26 follows:

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

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

49 S 7. This act shall take effect January 1, 2013.