

1440

2011-2012 Regular Sessions

I N S E N A T E

January 7, 2011

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-
22 ing most gun owners, believe that assault weapons should not be avail-
23 able for civilian use.

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

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 Subdivision 22 of section 265.00 of the penal law is REPEALED and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

3 22. "ASSAULT WEAPON" MEANS ANY:

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

6 (I) A PISTOL GRIP;

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

9 (III) A FOLDING, TELESCOPING OR THUMBHOLE STOCK;

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

14 (V) A MUZZLE BRAKE OR MUZZLE COMPENSATOR;

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

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

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

22 (II) A FOLDING, TELESCOPING OR THUMBHOLE STOCK;

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

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

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

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

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

32 (II) A FOLDING, TELESCOPING OR THUMBHOLE STOCK;

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

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

35 (E) SHOTGUN WITH A REVOLVING CYLINDER; OR

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

39 (G) MODIFICATIONS OF SUCH FEATURES, OR OTHER FEATURES, DETERMINED BY
40 RULES AND REGULATIONS OF THE SUPERINTENDENT OF STATE POLICE TO BE
41 PARTICULARLY SUITABLE FOR MILITARY AND NOT SPORTING PURPOSES. IN ADDI-
42 TION, THE SUPERINTENDENT OF STATE POLICE SHALL, BY RULES AND REGU-
43 LATIONS, DESIGNATE SPECIFIC SEMI-AUTOMATIC CENTERFIRE OR RIMFIRE RIFLES
44 OR SEMI-AUTOMATIC SHOTGUNS, IDENTIFIED BY MAKE, MODEL, AND MANUFACTUR-
45 ER'S NAME, TO BE WITHIN THE DEFINITION OF ASSAULT WEAPON, IF THE SUPER-
46 INTENDENT OF STATE POLICE DETERMINES THAT SUCH WEAPONS ARE PARTICULARLY
47 SUITABLE FOR MILITARY AND NOT SPORTING PURPOSES. A LIST OF ASSAULT WEAP-
48 ONS, AS DETERMINED BY THE SUPERINTENDENT OF STATE POLICE, SHALL BE MADE
49 AVAILABLE ON A REGULAR BASIS TO THE GENERAL PUBLIC.

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

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

54 24. "DETACHABLE MAGAZINE" MEANS ANY AMMUNITION FEEDING DEVICE, THE
55 FUNCTION OF WHICH IS TO DELIVER ONE OR MORE AMMUNITION CARTRIDGES INTO

1 THE FIRING CHAMBER, WHICH CAN BE REMOVED FROM THE FIREARM WITHOUT THE
2 USE OF ANY TOOL, INCLUDING A BULLET OR AMMUNITION CARTRIDGE.

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

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

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

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

16 1. RENDERS THE ASSAULT WEAPON PERMANENTLY INOPERABLE; OR

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

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

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

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

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

47 S 7. This act shall take effect July 1, 2012; provided that the divi-
48 sion of state police is authorized to promulgate any and all rules and
49 regulations and take any other measures necessary to implement this act
50 on its effective date on or before such date.