

202--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. SQUADRON, AVELLA, BRESLIN, DIAZ, GIANARIS, KRUEGER, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 assault weapon. The availability of military-style assault weapons poses
2 a serious threat to the public health and safety. Most citizens, includ-
3 ing most gun owners, believe that assault weapons should not be avail-
4 able for civilian use.

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 Subdivision 22 of section 265.00 of the penal law is REPEALED and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

7 22. "ASSAULT WEAPON" MEANS ANY:

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

10 (I) A PISTOL GRIP OR THUMBHOLE STOCK;

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

13 (III) A FOLDING OR TELESCOPING STOCK;

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

18 (V) A MUZZLE BRAKE OR MUZZLE COMPENSATOR;

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

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

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

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

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

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

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

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

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

36 (II) A FOLDING OR TELESCOPING STOCK;

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

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

39 (E) SHOTGUN WITH A REVOLVING CYLINDER; OR

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

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

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

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

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

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

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

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

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

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

22 1. RENDERS THE ASSAULT WEAPON PERMANENTLY INOPERABLE; OR

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

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

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

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

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

52 S 7. This act shall take effect July 1, 2013; provided that the divi-
53 sion of state police is authorized to promulgate any and all rules and
54 regulations and take any other measures necessary to implement this act
55 on its effective date on or before such date.