

# 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.

LBD04902-01-7

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

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

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

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

18 3. Any person who disposes of any machine-gun, assault weapon[~~7~~] ~~or~~  
19 large capacity ammunition feeding device [~~or firearm silencer~~] is guilty  
20 of a class D felony. Any person who knowingly buys, receives, disposes  
21 of, or conceals a machine-gun, firearm, large capacity ammunition feed-  
22 ing device, rifle or shotgun which has been defaced for the purpose of  
23 concealment or prevention of the detection of a crime or misrepresenting  
24 the identity of such machine-gun, firearm, large capacity ammunition  
25 feeding device, rifle or shotgun is guilty of a class D felony.

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

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

46 § 5. This act shall take effect immediately.