# STATE OF NEW YORK

8096

# IN SENATE

March 28, 2018

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the penal law, in relation to adding possession of a flamethrower to the crime of criminal possession of a weapon in the fourth degree

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

Section 1. Section 265.00 of the penal law is amended by adding four new subdivisions 26, 27, 28 and 29 to read as follows:

**26. "Flamethrower" means a device capable of projecting a stream of burning fuel a distance of at least three feet. Inoperable display units shall not be considered "flamethrowers" for the purposes of this section.**

**27. "Historical flamethrower" means a flamethrower constructed, in whole or in substantial part, of components manufactured prior to nineteen hundred sixty-six.**

**28. "Substantial part" means constructed with at least five significant components manufactured prior to nineteen hundred sixty-six.**

**29. "Significant components" means fully functional and necessary parts for the operation of a flamethrower including:**

**(a) fuel cell;**

**(b) gas caps;**

**(c) pressure regulator;**

**(d) pressure bottle;**

**(e) hose;**

**(f) wand fuel valve;**

**(g) barrel;**

**(h) front grip;**

**(i) ignition shield; and**

**(j) rear grip.**

§ 2. The penal law is amended by adding a new section 265.41 to read as follows:

**§ 265.41 Criminal possession of a flamethrower.**

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

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**A person is guilty of criminal possession of a flamethrower when he or she possesses a flamethrower; provided, however, that nothing in this section shall prohibit the manufacture, remanufacture, restoration or alteration of flamethrower components. This section shall not apply to historical flamethrowers, flamethrowers used for agricultural or construction purposes or any flamethrower lawfully acquired and possessed prior to the effective date of this section.**

**Criminal possession of a flamethrower is a class E felony.**

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.