STATE OF NEW YORK

S. 2450--A
Cal. No. 94

A. 2686--A
R. R. 23

2019-2020 Regular Sessions

SENATE - ASSEMBLY

January 24, 2019

IN SENATE -- Introduced by Sens. KRUEGER, MAYER, ADDABBO, BAILEY, BENJAMIN, BIAGGI, BRESLIN, BROOKS, CARLUCCI, COMRIE, GAUGHRAN, GIANARIS, GOUNARDES, HARCKHAM, HOYLMAN, JACKSON, KAMINSKY, KAPLAN, KAVANAGH, LIU, MONTGOMERY, MYRIE, PARKER, PERSAUD, RAMOS, SALAZAR, SAVINO, SEPULVEDA, SERRANO, STAVISKY, STEWART-COUSINS, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- reported favorably from said committee and committed to the Committee on Rules -- ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

IN ASSEMBLY -- Introduced by M. of A. PAULIN, HEASTIE, LENTOL, PEOPLES-STOKES, ABINANTI, ENGLEBRIGHT, JAFFEE, L. ROSENTHAL, GALEF, COOK, ORTIZ, CYMBROWITZ, DINOWITZ, WEPRIN, FAHY, BRAUNSTEIN, MOSLEY, BUCHWALD, STECK, COLTON, ROZIC, SEAWRIGHT, LAVINE, CRUZ, FRONTUS, GRIFFIN, JACOBSON, PICHARDO, REYES, SAYEGH, STERN, D. ROSENTHAL, BLAKE, RAMOS, FERNANDEZ -- Multi-Sponsored by -- M. of A. ARROYO, AUBRY, CRESPO, DenDEKKER, GOTTFRIED, HEVESI, PERRY, RICHARDSON, SIMON, THIELE, WRIGHT -- read once and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading

AN ACT to amend the penal law and the general business law, in relation to storage of firearms; and to repeal section 2 of chapter 19 of the laws of 2019 amending the civil practice law and rules and the penal law relating to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun, relating thereto

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

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

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Section 1. Section 2 of chapter 19 of the laws of 2019 amending the civil practice law and rules and the penal law relating to establishing extreme risk protection orders as court-issued orders of protection prohibiting a person from purchasing, possessing or attempting to purchase or possess a firearm, rifle or shotgun, is REPEALED.

§ 1-a. Section 265.45 of the penal law, as amended by section 3 of part FF of chapter 57 of the laws of 2013, is amended to read as follows:

§ 265.45 [~~Safe storage of~~] Failure to safely store rifles, shotguns, and firearms in the first degree.

No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who [~~such person knows or has reason to know is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)(1), (4), (8) or (9)~~]: (i) is under sixteen years of age; (ii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm pursuant to a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or (iii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm based on a conviction for a felony or a serious offense, shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein. [~~With respect to a person who is prohibited from possessing a firearm pursuant to 18 USC § 922(g)(9), for purposes of this section, this section applies only if such person has been convicted of a crime included in subdivision one of section 370.15 of the criminal procedure law and such gun is possessed within five years from the later of the date of conviction or completion of sentence.~~] Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. The possession of a rifle or shotgun by a person less than sixteen years of age who is the holder of a hunting license or permit issued pursuant to article eleven of the environmental conservation law when used in accordance with such law shall not be governed by this section.

[~~A violation of this section shall constitute~~] Failure to safely store rifles, shotguns, and firearms in the first degree is a class A misdemeanor.

§ 2. The penal law is amended by adding a new section 265.50 to read as follows:

§ 265.50 Failure to safely store rifles, shotguns, and firearms in the second degree.

No person who owns or is custodian of a rifle, shotgun or firearm and knows, or has reason to know, that a person less than sixteen years of age is likely to gain access to such rifle, shotgun or firearm shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository

or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall have the same meaning as such term is defined in section 265.45 of this article. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. The possession of a rifle or shotgun by a person less than sixteen years of age who is the holder of a hunting license or permit issued pursuant to article eleven of the environmental conservation law when used in accordance with such law shall not be governed by this section.

Failure to safely store rifles, shotguns, and firearms in the second degree is a violation punishable only by a fine of not more than two hundred fifty dollars.

§ 3. Section 400.00 of the penal law is amended by adding a new subdivision 18 to read as follows:

18. Notice. Upon the issuance of a license, the licensing officer shall issue therewith the following notice in conspicuous and legible twenty-four point type on eight and one-half inches by eleven inches paper stating in bold print the following:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE. FIREARMS MUST EITHER BE STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR OTHER LAWFUL POSSESSOR IF A CHILD RESIDES IN THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW. FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION SEPARATE FROM AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH.

Nothing in this subdivision shall be deemed to affect, impair or supersede any special or local law relating to providing notice regarding the safe storage of rifles, shotguns or firearms.

§ 4. Subdivision 2 of section 396-ee of the general business law, as added by chapter 189 of the laws of 2000, is amended to read as follows:

(2) Every person, firm or corporation engaged in the retail business of selling rifles, shotguns or firearms, as such terms are defined in section 265.00 of the penal law, shall, in the place where such rifles, shotguns or firearms are displayed or transferred to the purchaser, post a notice conspicuously stating in bold print that: [~~"The use of a locking device or safety lock is only one aspect of responsible firearm storage. For increased safety firearms should be stored unloaded and locked in a location that is both separate from their ammunition and inaccessible to children and any other unauthorized person."~~] "RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE. RIFLES, SHOTGUNS AND FIREARMS MUST EITHER BE STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR OTHER LAWFUL POSSESSOR IF A CHILD RESIDES IN THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A PERSON PROHIBITED FROM POSSESSING A RIFLE, SHOTGUN OR FIREARM UNDER STATE OR FEDERAL LAW. RIFLES, SHOTGUNS AND FIREARMS SHOULD BE STORED UNLOADED AND LOCKED IN A LOCATION SEPARATE FROM AMMUNITION. LEAVING RIFLES, SHOTGUNS OR FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH." Nothing in this subdivision shall be deemed to affect, impair or supersede any special or local law relating to the posting of notice regarding the safe storage of rifles, shotguns or firearms.

§ 5. Severability. If any word, phrase, clause, sentence, paragraph, section, or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the word, phrase, clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 6. This act shall take effect on the sixtieth day after it shall have become a law.