STATE OF NEW YORK

8174

2019-2020 Regular Sessions

IN ASSEMBLY

June 5, 2019

Introduced by M. of A. BUTTENSCHON -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to storage of firearms

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

Section 1. Section 265.45 of the penal law, as amended by a chapter of the laws of 2019, amending the penal law and the general business law relating to storage of firearms, as proposed in legislative bill numbers S. 2450-A and A. 2686-A, is amended to read as follows:

§ 265.45 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: (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. 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

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

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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.~~]

It shall not be a violation of this section to allow a person less than sixteen years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-e of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than sixteen years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law.

Failure to safely store rifles, shotguns, and firearms in the first degree is a class A misdemeanor.

§ 2. Section 265.50 of the the penal law, as added by a chapter of the laws of 2019, amending the penal law and the general business law relating to storage of firearms, as proposed in legislative bill numbers S. 2450-A and A. 2686-A, is amended 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.~~]

It shall not be a violation of this section to allow a person less than sixteen years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-e of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than sixteen years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law.

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. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2019, amending the penal law and the general business law relating to storage of firearms, as proposed in legislative bill numbers S. 2450-A and A. 2686-A, takes effect.