

# 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.

LBD08626-07-9

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5 purchase or possess a firearm, rifle or shotgun, is REPEALED.

6 § 1-a. Section 265.45 of the penal law, as amended by section 3 of  
7 part FF of chapter 57 of the laws of 2013, is amended to read as  
8 follows:

9 § 265.45 [~~Safe storage of~~] Failure to safely store rifles, shotguns, and  
10 firearms in the first degree.

11 No person who owns or is custodian of a rifle, shotgun or firearm who  
12 resides with an individual who [~~such person knows or has reason to know~~  
13 ~~is prohibited from possessing a firearm pursuant to 18 U.S.C. § 922(g)~~  
14 ~~(1), (4), (8) or (9)]~~: (i) is under sixteen years of age; (ii) such  
15 person knows or has reason to know is prohibited from possessing a  
16 rifle, shotgun or firearm pursuant to a temporary or final extreme risk  
17 protection order issued under article sixty-three-A of the civil prac-  
18 tice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or (iii)  
19 such person knows or has reason to know is prohibited from possessing a  
20 rifle, shotgun or firearm based on a conviction for a felony or a seri-  
21 ous offense, shall store or otherwise leave such rifle, shotgun or  
22 firearm out of his or her immediate possession or control without having  
23 first securely locked such rifle, shotgun or firearm in an appropriate  
24 safe storage depository or rendered it incapable of being fired by use  
25 of a gun locking device appropriate to that weapon. For purposes of this  
26 section "safe storage depository" shall mean a safe or other secure  
27 container which, when locked, is incapable of being opened without the  
28 key, combination or other unlocking mechanism and is capable of prevent-  
29 ing an unauthorized person from obtaining access to and possession of  
30 the weapon contained therein. [~~With respect to a person who is prohibit-~~  
31 ~~ed from possessing a firearm pursuant to 18 USC § 922(g)(9), for~~  
32 ~~purposes of this section, this section applies only if such person has~~  
33 ~~been convicted of a crime included in subdivision one of section 370.15~~  
34 ~~of the criminal procedure law and such gun is possessed within five~~  
35 ~~years from the later of the date of conviction or completion of~~  
36 ~~sentence.~~] Nothing in this section shall be deemed to affect, impair or  
37 supersede any special or local act relating to the safe storage of  
38 rifles, shotguns or firearms which impose additional requirements on the  
39 owner or custodian of such weapons. The possession of a rifle or shot-  
40 gun by a person less than sixteen years of age who is the holder of a  
41 hunting license or permit issued pursuant to article eleven of the envi-  
42 ronmental conservation law when used in accordance with such law shall  
43 not be governed by this section.

44 [~~A violation of this section shall constitute~~] Failure to safely store  
45 rifles, shotguns, and firearms in the first degree is a class A misde-  
46 meanor.

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

49 § 265.50 Failure to safely store rifles, shotguns, and firearms in the  
50 second degree.

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

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

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

15 § 3. Section 400.00 of the penal law is amended by adding a new subdivi-  
 16 sion 18 to read as follows:

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

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

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

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

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

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

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