

# STATE OF NEW YORK

1269

2021-2022 Regular Sessions

## IN SENATE

January 8, 2021

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:

1 Section 1. Section 265.00 of the penal law is amended by adding four  
2 new subdivisions 32, 33, 34 and 35 to read as follows:

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

7 33. "Historical flamethrower" means a flamethrower constructed, in  
8 whole or in substantial part, of components manufactured prior to nine-  
9 teen hundred sixty-six.

10 34. "Substantial part" means constructed with at least five signif-  
11 icant components manufactured prior to nineteen hundred sixty-six.

12 35. "Significant components" means fully functional and necessary  
13 parts for the operation of a flamethrower including:

14 (a) fuel cell;

15 (b) gas caps;

16 (c) pressure regulator;

17 (d) pressure bottle;

18 (e) hose;

19 (f) wand fuel valve;

20 (g) barrel;

21 (h) front grip;

22 (i) ignition shield; and

23 (j) rear grip.

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

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

3 § 265.41 Criminal possession of a flamethrower.

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

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

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