

# STATE OF NEW YORK

5000

2021-2022 Regular Sessions

## IN SENATE

February 22, 2021

Introduced by Sen. KAVANAGH -- 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 the purchase and disposal of firearms, rifles and shotguns; and to amend the executive law, in relation to the reporting of firearms seized or recovered by law enforcement

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

1 Section 1. Section 265.17 of the penal law, as amended by chapter 1  
2 of the laws of 2013, is amended to read as follows:

3 § 265.17 Criminal purchase or disposal of a weapon.

4 A person is guilty of criminal purchase or disposal of a weapon when:

5 1. Knowing that he or she is prohibited by law from possessing a  
6 firearm, rifle or shotgun because of a prior conviction or because of  
7 some other disability which would render him or her ineligible to  
8 lawfully possess a firearm, rifle or shotgun in this state, or he or  
9 she, with knowledge that he or she is the subject of an outstanding  
10 warrant of arrest issued upon the alleged commission of a felony or  
11 serious offense, such person purchases or otherwise acquires a firearm,  
12 rifle or shotgun from another person; or

13 2. Knowing that it would be unlawful for another person to possess a  
14 firearm, rifle or shotgun, or knowing that another person is the subject  
15 of an outstanding warrant of arrest issued upon the alleged commission  
16 of a felony or serious offense, he or she purchases or otherwise  
17 acquires a firearm, rifle or shotgun for, on behalf of, or for the use  
18 of such other person; or

19 3. Knowing that another person is prohibited by law from possessing a  
20 firearm, rifle or shotgun because of a prior conviction or because of  
21 some other disability which would render him or her ineligible to  
22 lawfully possess a firearm, rifle or shotgun in this state, or knowing  
23 that another person is the subject of an outstanding warrant of arrest

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

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1 issued upon the alleged commission of a felony or serious offense, a  
2 person disposes of a firearm, rifle or shotgun to such other person.

3 Criminal purchase or disposal of a weapon is a class D felony.

4 § 2. Subdivisions 4 and 5 of section 230 of the executive law, as  
5 added by chapter 189 of the laws of 2000, are amended and three new  
6 subdivisions 6, 7 and 8 are added to read as follows:

7 4. The superintendent of the division of state police shall establish  
8 and maintain within the division a criminal gun clearinghouse as a  
9 central repository of information regarding all guns seized, forfeited,  
10 found or otherwise coming into the possession of any state or local law  
11 enforcement agency which are believed to have been used in the commis-  
12 sion of a crime. The superintendent of the division of state police  
13 shall adopt and promulgate regulations prescribing reporting procedures  
14 for such state or local law enforcement agencies, including the form for  
15 reporting such information. In addition to any other information which  
16 the superintendent of the division of state police may require, the form  
17 shall require (a) the serial number or other identifying information on  
18 the gun, if available and (b) a brief description of the circumstances  
19 under which the gun came into the possession of the law enforcement  
20 agency, including the crime which was or may have been committed with  
21 the gun. Whenever a state or local law enforcement agency seizes or  
22 recovers a gun that was unlawfully possessed, recovered from a crime  
23 scene, or is reasonably believed to have been used in or associated with  
24 the commission of a crime, or is otherwise recovered by such agency as  
25 an abandoned or discarded gun, such agency shall report such seized or  
26 recovered gun to the criminal gun clearinghouse as soon as practicable,  
27 but in no case more than twenty-four hours after such agency has taken  
28 possession of such gun. Every report made to the criminal gun clearing-  
29 house shall result in the submission of a request to the national trac-  
30 ing center of the bureau of alcohol, tobacco, firearms and explosives to  
31 initiate a trace of such gun and the bureau of alcohol, tobacco,  
32 firearms and explosives shall be directed to provide the gun trace  
33 results to the superintendent of the division of state police and to the  
34 law enforcement agency that submitted the clearinghouse report.

35 5. [~~In any case where a state or local law enforcement agency investi-~~  
36 ~~gates the commission of a crime in this state and a specific gun is~~  
37 ~~known to have been used in such crime, such agency shall submit a~~  
38 ~~request to the national tracing center of the United States Department~~  
39 ~~of Treasury, bureau of alcohol, tobacco and firearms to trace the move-~~  
40 ~~ment of such gun and such federal agency shall be requested to provide~~  
41 ~~the superintendent of the division of state police and the local law~~  
42 ~~enforcement agency with the results of such a trace. This subdivision~~  
43 ~~shall not apply where the source of a gun is already known to a local~~  
44 ~~law enforcement agency.] All state and local law enforcement agencies  
45 shall participate in the bureau of alcohol, tobacco, firearms and  
46 explosives collective data sharing program for the purpose of sharing  
47 gun trace data among all law enforcement agencies in the state on a  
48 reciprocal basis.~~

49 6. (a) Whenever a state or local law enforcement agency seizes or  
50 recovers a gun that was unlawfully possessed, recovered from the scene  
51 of a crime, or is reasonably believed to have been used in or associ-  
52 ated with the commission of a crime, or is otherwise recovered by such  
53 agency as an abandoned or discarded gun, such agency shall arrange for  
54 every such gun that is determined to be of a type that is eligible for  
55 national integrated ballistic information network data entry and corre-  
56 lation to be test-fired as soon as practicable, and the results of such

1 test-firing shall be submitted forthwith to the national integrated  
2 ballistic information network to determine whether such gun is associ-  
3 ated or related to a crime, criminal event, or any individual associated  
4 or related to a crime or criminal event or reasonably believed to be  
5 associated or related to a crime or criminal event.

6 (b) Whenever a state or local law enforcement agency seizes or recov-  
7 ers any ammunition cartridge case from the scene of a crime that is of a  
8 type that is eligible for national integrated ballistic information  
9 network data entry and correlation, or otherwise has reason to believe  
10 that any seized or recovered ammunition cartridge case that is of a type  
11 that is eligible for national integrated ballistic information network  
12 data entry and correlation is related to or associated with the commis-  
13 sion of a crime or the unlawful discharge of a gun, such agency shall,  
14 as soon as practicable, arrange for the ballistics information to be  
15 submitted to the national integrated ballistic information network.

16 7. Whenever a state or local law enforcement agency seizes or recovers  
17 any gun, such agency shall promptly enter the make, model, caliber, and  
18 serial number of such gun into the national crime information center  
19 system to determine whether such gun was reported stolen.

20 8. The superintendent may adopt rules and regulations to effectuate  
21 the provisions of this section.

22 § 3. This act shall take effect July 1, 2021.